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DISCOURSE

By way of

DIALOGUE,

• **WHETHER**

MONARCHY

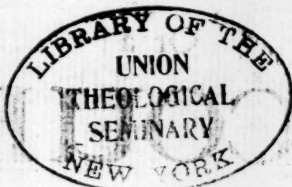
BE *LIBRARY OF THE UNION OF THE*
JURE DIVINO: *THEOLOGICAL SEMINARY*

Collected out of the most Approved Authors,
both Antient and Modern.

Dialogue the First.

L O N D O N,

Printed for Richard Baldwin in Warwick-Lane, near
the Oxford-Arms. 169 $\frac{1}{2}$



MONARCHY
OR
DEMOCRACY
A
DISCOURSE
BY
W. L. GAY

Collected out of the most Approved Authors
both Ancient and Modern

Translated into English

LONDON

Printed by W. L. GAY in North Street, near
the Exchange, 1737

The Epistle Dedicatory.

To all impartial and unprejudiced Readers, especially those of our Hopeful and Ingenious Nobility, and Gentry.

HAVING, out of Curiosity, for some years before the late wonderful happy Revolution, as well as since, for the satisfaction of my own Conscience, carefully perused all Treatises of any value that have been published of late years concerning the Original, and Rights of Civil Government, as well of Monarchy, as the other kinds thereof; as also of the Antient Government, and Fundamental Constitutions of this Kingdom, I have found it necessary in order to my better retaining of what I had read, and making a more certain Judgment thereupon, to commit to writing the most considerable Arguments on both sides, as well of those who will have Monarchy to be Jure Divino, as of those who only allow it to Government in general; of those who hold an Absolute Subjection, or Passive Obedience (as their Phrase is) as well as of those who hold Resistance in some Cases necessary; of those that maintain our Monarchy to have been limited, by the very Constitution it self, and of those that suppose all our Rights, and Liberties, nay, the very Being of Parliaments themselves, to owe their Original wholly to the gracious Concession, and Favour of our former Kings. Having made some impartial Collections of this Nature, I shewed them to some Friends, who told me they thought they might prove of great use for the satisfying of some mens doubts and scruples concerning Lawful Obedience to the Government of their present Majesties, as looking upon it, as the best and most ingenious way of Conviction to propose the Arguments fairly on both sides, without interposing my own Judgment, but to leave it to the intelligent, and impartial Reader to embrace that side on which he found the most rational & convincing Arguments: This task, tho' troublesome enough, I was prevail'd with to undertake, not for Fame's sake, since I do not desire to be known but merely for the publick good and happiness of my Country; but being also satisfied that a Subject of this great importance deserved more pains than what I had yet bestowed upon it, and to be handled in a more Artificial Method, than the old dry Scholastick way of Objection, and Solution: I therefore thought that it would prove more pleasant, as well as profitable for the Readers (especially those of our young Nobility and Gentry, for whom I principally design this undertaking) to digest all that I had written on these Subjects into so many distinct Dialogues, or Conversations, supposed to be held between two intimate Friends, who, not with-

The Epistle Dedicatory.

standing their different Principles and Opinions in Politics, had always maintained a strict and generous Correspondence: But I was the more inclined to this way of writing, not only because I have observed that Controversial matters written by way of Dialogue, according to the true Rules thereof, have very well obtained among all intelligent Readers; but also since the Subjects I treat of are of a nice nature, and that the Collections I had made contained strict Inquiries into the Principles, and Tenets, in the Writings of divers persons of Reputation for Learning, and Ingenuity; I was sensible how invidious a Task it must be to write on purpose against so many great men, as also how troublesome and tedious it would prove to my self, as well as the Readers, to pursue and confute the Opinions of any Author page by page, since it must be chiefly imputed to that manner of managing of Controversies, that answers to Books prove so unacceptable to the World. And though I grant that this way of writing hath also its difficulties & objections, as being more diffusive, and so taking up more time both to write and read Discourses Dialogue-wise; where either one or other of the Disputants is often apt to rove from the Subject; yet I must also affirm, that this may be in great part prevented by the Writer, who may, if he pleases, take care to keep close to the Question, and not start afresh Hare, till the old one is run down; and as for the diffusiveness of Dialogues above Polemical Discourses, that is no considerable Objection, since a man may either make, or answer Objections in almost as few words this way as the other. And tho' it be granted that matters of meer form in Dialogues are more tedious, yet the Reader, as well as Traveller, will find that the pleasantness of the Road often makes amends for its being somewhat about. But whether I have here truly pursued the Rules of Dialogue in this, and the ensuing Discourses I intend to publish on these Subjects, I must leave to the Readers Judgment; but this much I think I may safely affirm, that I have carefully avoided all bitter, and reflecting Language on either side, since I design these Discourses for common places of Arguments, not forms of Railing: And I have also declined shewing my self a Party, or giving my own Opinion in any Question proposed, and therefore I have not made either of my Disputants converting each other to his own Opinion; since I know nothing is more easie in writing of Dialogues, as well as Romances, than to make the Knight Errant always beat the Giant.

But it is fit I give you some account of this present Discourse, as also of the rest that may follow it. This first Dialogue then is chiefly on this Question; Whether any particular Species of Government is of Divine Right, or Institution? The next shall be, Whether there can be made out from the natural, or revealed Law of God any Succession

The Epistle Dedicatory.

Succession to Crowns by Divine Right? *The third and fourth, Whether Passive Obedience (as it is called) or an absolute Non-resistance of the Supream Powers, in any case whatsoever, be enjoined by the Law of Nature, and the holy Scriptures? As also, Whether this hath always been the Doctrine of our Reformed Church of England? The fifth concerns the Original of Civil Authority, in what sense it is derived from God, and in what from the People, and whether their Consent be always necessary to make any Government to be obeyed for Conscience sake? The sixth shall treat of the Original, and Fundamental Constitution of our English Government, whether it was an absolute or limited Monarchy in its first Institution; and whether the King is, and hath ever been the sole Legislative Power of the Nation? The seventh, Whether the Parliament, or great Counsel, owe its Original to the meer Grace, and Favour of our Kings, or whether it is not as Antient as the Constitution it self? The eighth and last, Whether our late Revolution, and the Conventions and present Parliament's Declaration, and Recognition of their present Majesties K. William and Q. Mary, be not Legal, and according to the Antient Constitution, and Fundamental Government of this Kingdom? and consequently, Whether the Oath of Allegiance may not be taken to them, not only as King and Queen de Facto, but de Jure?*

In all which Discourses I have considered & contracted the best Arguments that I could find made use of by the most considerable both Antient & Modern Authors, either in Latine, or English, especially the Pamphlets that have been writ on either side since the late Revolution: But as for those in our own Language, when-ever any Author speaks so well, and argues so closely, that to put it into other words would make it worse, I have still put the Arguments of either one, or other of the Disputants in his own words, tho' because I would not be thought guilty of Plagiarism, I have truly quoted the book and page from whence I took it, and I hope no Author will take it ill, if I have made bold sometimes to contract their Arguments, without altering their sense, or words farther, than by putting in or out a word or expression to make the style run the more smoothly, and I desire they would not think I write on purpose to confute them; since I freely declare my design is not to write against any man's Opinions, as they are his, but only freely to examine them, in order to an impartial discovery of the Truth; and since some of them may have been, perhaps, too commonly, and favourably received by our ordinary Gentry and Clergy, if therefore any ingenious person will take upon him farther

The Epistle Dedicatory.

farther to assert or vindicate any Opinion here questioned either by the one or other of our Disputants, and will clearly, and fairly shew me where any Argument might have been put more home, or any Objection more solidly answered, I shall be so far from taking it amiss, that I shall rather give him my thanks for his pains; and do here farther promise, to insert all, or at least the substance of his Arguments under their proper Heads, with all due acknowledgments to their Authors, if ever these Discourses will bear a second Impression; only I desire him, whosoever he shall be, so far to imitate the Gentlemen who are supposed to converse in these Dialogues, as to forbear all rude Reflections, and coarse Language, otherwise I hope they will give me their pardon if I only take notice of their Reasons, and pass by their Passion.

Nor would I have any Candid Reader to slight the two first Dialogues, because they treat of Opinions at present out of fashion; viz. The Divine Right of Monarchy and Succession from the Patriarchal Power given by God to Adam, since you may easily remember that it is not many years ago, that our Pulpits and Presses would scarce suffer any other Doctrines either to be Preacht or Publisht, than on these Subjects: It faring with some Political Opinions, as with Fashions, which are never so generally received, and worn, as when they have been in Vogue at Court. Those Divines, and Lawyers who were the Inventers, or new Vampers of them, commonly receiving the greatest Rewards and Preferments, who (as the Court-Tailors did Fashions) could invent such Doctrines, and Opinions, as were most burthensom, and uneasie to all sort of People, except a few Great ones, who were to gain by them; and I desire you also farther to consider, that however odd, or unreasonable these Doctrines may seem to most men, yet certainly they must have, at least, a great appearance of Truth, since they were able to captivate the Reasons of the Major part of both Houses of Convocation in the beginning of the Reign of King James the First, they then declaring them by several Canons, made on purpose, the only sure Foundations of all Civil Authority, as also of Obedience thereunto; as plainly appears by that late Treatise which goes under the name of Bishop Overal's Convocation-Book. And tho' neither the King, nor Parliament, then thought fit to give those Canons the stamp of Civil Authority, whereby they might become Laws: Yet for all this, it did not hinder divers Learned, and Ingenious men, as well of Clergy, as Laity, from embracing these Opinions, such as were Sir Robert Filmer, and his Kindicator Mr. B. as also the most Reverend and Learned Bishop Sanderson, with divers others of note, whose Arguments I have made use of, and considered in the two first Dialogues,
and

The Epistle Dedicatory.

and that in a way as little reflective as possible; since I know what is due to the memory and fame of such great, and worthy Persons; and therefore, I have only made use of the initial Letters of their Names, or Titles of their Books in the margin, with an Index at the beginning of each Discourse, shewing what Book each mark does signify; which Method I have pursued through all the rest of these Discourses; and of what is not so markt, I desire the Reader to look upon the words, if not the sense, to be my own; since I do not pretend to be, an Inventor of new Notions in Politicks, and there is no man more sensible than myself of that old Latine Sentence, *Nihil dictum, quod non dictum prius*.

But tho' I have already finisht almost all the Discourses, on the Subjects above mentioned, yet am I not very fond of publishing them, after so many several Treatises that have been written thereon; tho' my design be for the saving of the Readers money as well as time, to reduce what is material in all of them into so many 12 d. Books; and therefore I have at present published this first Dialogue, as an Introduction to the rest, that, according to the success I find this meets with abroad, I may be more, or less encouraged to proceed; nor need it seem strange to any considering person, that I chuse rather to publish one Discourse at a time; since it is but too publick a Complaint how scarce a Commodity Money (as well as Paper) is at this time.

And therefore I have given the Printer leave to publish the of these Discourses in a month, or oftner, as he shall think good, since I am sensible the greatest part of common Readers would rather part with eight or ten shillings at so many several times, than all at once; and have therein endeavour'd to imitate the Great Council of the Nation, who have thought fit to divide the present Poll-Tax into four quarterly Payments.

I have but one thing more to advertise the Reader; viz. That tho' the Title of this Discourse mentions no more than abridging the Question of Divine Right of Monarchy, yet the natural Powers of Fathers, and Masters of Families, and Freeman, are here distinctly treated of, and closely enquired into, as being the first Elements, or Principles of all Civil Powers, as these alone out of which they could be at first regularly made, and into which they are upon the dissolution of Civil Governments again to be resolved.

To conclude therefore, I hope that the Arguments in this, and all the following Discourses, may prove so plain and convincing to all careful, and unprejudiced Readers, that they may as easily discover the Truth, as an honest unbiass'd Jury-man can at a Trial judge on which side the Right and Justice of the Cause inclines, upon the bare hearing the Evidence on both sides; nay, even before the Court hath summ'd it up: Since, I think, it may prove more useful, as well as divertive, to hear, or peruse the Arguments, and Reasons, in short, that may be brought on either side; and thereon to pass a Judgment, than to read over the tedious and Voluminous Deeds, and Evidences of the Estate in question: But on which side soever you bring in your Verdict, I heartily wish that God would direct your Minds, and guide your Judgments to find out and embrace the Truth, which as it was the only End of my writing, so it is now, and will be also of publishing this and those other Treatises, I intend on the Subjects I have before mentioned.

Adieu.

The Subject of the First Dialogue.

VHether Hereditary Monarchy be of Divine Right or Institution?

Authors made use of in this Dialogue, and how denoted in the Margin.

- | | |
|--|---|
| 1. Sir Robert Filmer's | { 1. Observations on <i>Grotius de Jure Belli & Pacis</i> . R. F. O. G.
2. <i>Patriarcha</i> , F. P.
3. Anarchy of mixt or limited Monarchy. F. A. M. M. |
| 2. Mr. Bohun's | { 4. Preface to the Observations on <i>Aristotle</i> . F. P. O.
5. Directions for Obedience to Governours. D. O. G.
} Preface to Sir Robert Filmer's <i>Patriarcha</i> . B. P. P.
{ His Conclusion to the same. B. C. P. |
| 3. <i>Patriarcha non Monarcha</i> . P. N. M. | |
| 4. <i>Grotius de Jure Belli & Pacis</i> . G. J. B. | |
| 5. <i>Pufendorf de Jure Naturæ & Gentium</i> . P. J. N. | |
| 6. Two Treatises of Government. T. T. G. | |
| 7. <i>Rushworth's Historical Collections</i> . R. H. C. | |
| 8. <i>Bishop Sanderson's Preface to the Power of the Prince, &c.</i> B. S. P. P. | |

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I Desire always to be understood, that when I make use of the word People, I do not mean the vulgar or mixt Multitude, but in the state of Nature the whole Body of Free Men and Women, especially the Fathers and Masters of Families; and in a Civil State, all degrees of Men, as well the Nobility and Clergy, as the Common People.

T H E

First Dialogue

B E T W E E N

Mr. F R E E M A N a Gentleman,

A N D

Mr. M E A N W E L L a Civil Lawyer,

Supposed to be immediately upon the late
K I N G J A M E S ' s first Departure.

F. G O O D Morrow Sir, what ! at your Study thus early this Morning.

M. That is no wonder, if you were acquainted with my Hours: But pray Sir, may I not likewise ask you what extraordinary occasion brings you out of your Lodgings so much sooner than your ordinary time ?

F. Why Sir, I'll tell you: Being awake very early this Morning, and not able to sleep for thinking on the great Change, that might happen, let either the King or Prince get the better: and hearing some odd Rumours last Night of the King's Intentions to go away: I was resolv'd to get up, and go to the Coffee-house, to hear what News; where I had scarce sat down, before a Gentleman comes in from *Whitehall*, and brings us a certain account, that the King withdrew himself this Morning between three and four of the Clock, no Body knows whither, (tho' most believe he is gone after the Queen into *France*) which I thought would be so surprizing (I will not say welcome) to you, that being so near your Lodgings, I thought it would be worth while to step up, and tell you of it, and take your Thoughts of this great (and I hope happy) Change, which so great a Revolution is likely to produce in this Nation.

B

M. I

M. I thank you, Sir, for your kindness, tho' it is not half an Hour ago, that one I employ in some Business relating to a Client of mine, came hither, and gave me the same account that you do, tho' it was no great surprize to me, for ever since *Sunday* that the King sent the Queen and Prince away, I believ'd that he gave the Game for lost.

F. I must confess I was of another Mind, and thought that when he had secured the Queen and Child, he would have had one Brush with the Prince before he could have got to *London*, and if he had had the worst of it, he could have but gone away at last. But to leap away on this Manner, and to loose Three Kingdoms without ever striking one stroke, it is not, I confess, suitable to that high Character his Admirers have always had of his Courage and Conduct.

M. Alas! Good King, what would you have him do? Or whom could he rely on? When some of his near Relations, and divers of those whom he had raised almost from nothing had deserted him? How could he then trust an Army of Mercenaries, who being most of them but the Dregs of the People, would, it is likely, rather have delivered him up to the Prince, than have ventured their Lives for him.

F. What you have said concerning his Majesties Relations and Confidants deserting him, makes rather against than for the King's Cause; since it cannot be supposed they would have left a Prince to whom they were so much obliged, to joyn themselves with his Enemy, from whom they had no reason to expect greater Advantages, than they had already, unless they had been satisfied in their Consciences that the Protestant Religion Establish'd in these Nations, and also our Civil Rights and Liberties were in imminent danger of being utterly lost and destroyed; and tho' I grant that some of the King's Officers, and Souldiers went over to the Prince; yet considering how few they were, that did so, not being (as I am credibly informed) above seven or eight hundred Men at the most; and what great numbers of Men he had left with him, he might methinks, have turned out those Officers, he suspected, and put others in their Rooms, who would have Engaged to Live and Die with him; and if this would not have done, he might have sent those Regiments he most suspected back to *London*: And then reckoning the *Scotch* and *Irish* Forces that came lately over, besides the Papists he had in his Army, and those who having more Courage, than Conscience, could never expect to Fight for a Prince, who would pay them better: I am confident (if this had been done) he might after the going over of those few Troops, have made up as good, if not a better Army than the Princes; and so need not have scamp'd last Week from *Saltbury* in that haste he did, whilst the Enemy was near fifty Miles off. But as it is, I am very well satisfied with all that hath happen'd in this great Revolution, and convinced of the Truth of that old saying, *Quos perdere vult Jupiter, demorat prius*.

M. So far I go along with you, that God doth often make use of the Wick'dness and Treachery of Men, to bring his great Designs about: But whether God hath ordain'd this great Revolution, as you call it, for a Deliverance or Punishment to this Nation, I am yet in doubt, for if you please to consider how much those two Causes have contributed to this turn of Affairs, I suppose if you argue according to my Principles we must own that tho' this Change hath happened by Gods permissive Providence, (as all things

things else tho' never so ill) yet whether he doth approve of all that hath been done to procure it, I much doubt; since if divers of our Nobility, with some of our Clergy had not quitted their Doctrines of Passive-Obedience and Non-Resistance, so long owned by the Church of England, this Revolution could not have happened at all, or at least not so suddenly, as it did: So that indeed I must confess, I am not only grieved at his Majesties hard Fortune, but also stand amazed, and cannot but reflect with wonder on the strange Vicissitude of Worldly Affairs, to see a Great King, who but last Week commanded a Powerful Army of more than Forty Thousand Men forced out of his Throne, and made to fly his Kingdom by a Prince that did not bring half that Number into the Field. And who can sufficiently Bewail the King's Misfortunes, who hath been at once betrayed by the ill Advice of his Counsellors, the Treachery of his Friends, and the Cowardice of his Souldiers?

F. Methinks Sir, there is no such great cause of wonder, much less of concern in all this: For who can much admire that a Prince should be thus used, who had not only provok'd a Powerful Enemy to invade him from Abroad, but (by Industiously labouring to introduce Popery and Arbitrary Government at Home) had lost the Hearts of almost all, except his Popish Subjects, inasmuch that many of his own Souldiers were so terrified with the Thoughts of being discarded (like the Protestant Army in Ireland) to make room for Irish and French Papists, that they had very little Courage to Fight, when they saw Calheering was the best Reward they could expect, if they proved Victorious: And who can much pity a Prince, who would rather loose the Affections of his People, than displease a few Priests and Jesuites: So that if he suffers he may thank himself; it not being Religion, but Superstition, which brought this Misfortune upon him. Since the King having got a Prince of Wales, and (as it is highly suspected) joined himself in a strict League with France for the Extirpation of Hereticks, it laid an absolute necessity upon the Prince of Orange to come over, that by the Assistance of the States of Holland, he might not only relieve us, but vindicate his own, and her Royal Highness his Princess's Right to the Succession, and secure his Countrey from a dangerous and powerful Invasion, which it was threatned with both by Sea and Land, whenever the Kings of France and England should be at leisure to join their Forces, to make War upon them; which you know all Europe hath expected for above these two years last past.

M. These things were somewhat, if they could be proved; but indeed, to deal freely with you, I look upon this League, and the Story of the Supposititious Birth of the Prince of Wales, as meer Calumnies cast out by Wicked and Crafty Men to render the King more odious to his People.

F. Nay, Sir, you don't hear me positively affirm, either the one or the other; since I grant they are not yet made out; but whosoever will consider all the Circumstances of the Birth of this Child cannot but be strongly inclined to believe it an Imposture, notwithstanding all the Depositions that are taken to the contrary. And as for the French League, you may be sure if there be any such thing, it is kept very private; and yet I must tell you there are very high and violent Presumptions to believe it true, or else why should the King of France in a late Memorial to the Pope, complain that his Holiness by opposing his Interest in Europe had hindered him in those great De-

signs be bad for the Extirpation of Heresie, by which he must surely intend *England or Holland*; Protestantism being sufficiently expelled out of his own Country already. And he could not do it in either of the other without the Consent and Assistance of his Brother the King of *England*? Or to what purpose should the King of *England* joyn with *France* to ruin *Holland*, and his own Son in Law into the Bargain, but to make a War meerly for Religion; since neither the *Dutch*, nor the Prince their Stadt-holder, gave him till now any just Provocation?

M. Well, however, these are but bare suspicions and presumptions, at most, and not proofs; and therefore in a doubtful matter, as this is, if we ought to judge favourably of the Actions of others, much more of Princes, whose Councils and Actions, tho' private, yet are still exposed to the Censure and Calumnies of their Enemies, and therefore I hope you will not blame me, if I freely confess, that I am deeply concerned to see an Innocent and Mistaken King forced to seek his Bread in a Foreign Land, and the more, since many of the Nobility, Gentry and Common People have contributed so much to it, by taking up Arms against him; and that so great a part of his own Army, and Officers should contrary to their Allegiance and Trust reposed in them, run over to the Enemy. Nay, that some of our Bishops and Clergy-men should, contrary to the so often acknowledged Doctrines of Passive-Obedience and Non Resistance, not only Countenance, but be likewise active in such desperate undertakings, and this in direct opposition to the known Laws of God and this Kingdom; which must needs make our Church a Scorn to our Enemies the Papists, and a Shame and Reproach to all Protestant Churches abroad, and render the people of *England* odious to all the Crowned Heads in *Europe*.

F. Well, Sir, I see you are very warm, and I hope, more than the Cause deserves. You may judge as favourably of the King's Proceedings, and as hardly of the Actions of the Nobility, Gentry, Clergy and People in this matter as you please. But yet I think I can make it as clear as the Day, that they have done nothing by joining in Arms with the Prince of *Orange*, but what is justifiable by the Principles of Self-preservation, the Fundamental Constitutions of the Government, and a just Zeal for their Religion and Civil Liberties, as they stand secured by our Laws; unless you would give the King a Power of making us Papists, and Slaves whenever he pleased. But as for your Doctrine of an Absolute Obedience without Reserve, and the Divine Right of Monarchy and Succession, you need not be much concerned whether the Papists laugh at you or no, since there are very few of them (if any) who are such Fools themselves as to believe such foolish Opinions. But indeed they have more reason to laugh at you whilst you maintain, than when you quit them; since as they have only rendered you a fit Object of their Scorn, so they would have made you but a more easy Sacrifice to their Malice. For what can Thieves desire more, than that those they design to Rob, should think it unlawful to resist them? And what could the Papists have wished for more, than that our Hands being fettered by this Doctrine of an Indefinite Passive-Obedience, our Lives, Religion and Liberties should lie at their Mercy? Which how long we should have enjoyed, whenever they thought themselves strong enough to take them away, the late cruel Persecutions, and Extirpations of the Protestants in *France*, *Savoy*, *Hungary*, and other places have proved but too fatal Examples, and therefore no wonder (let your high-flown

high-flown Church-men write or preach what they please) if the Body of the Nobility, Gentry, and People of *England* could never be perswaded to swallow Doctrines so fatal to their Religion, and destructive to their Civil Rights and Liberties both as Men and Christians.

And as for the Antiquity of these Doctrines, I think they are so far from being the Ancient Tenets of the Church of *England*, that they are neither to be found in its Catechism, Thirty Nine Articles, or Book of Homilies, taken in their true Sense and Meaning; tho indeed there is something that may tend that way in some of the late Church Canons about fifty years ago, but I do not look upon them as the Antient Establish'd Doctrine of our Church, because these Canons are not confirmed, but condemned by two Acts of Parliaments, and consequently never legally Established as they ought to be by the publick Sanction of the King and Nation:

Our old Queen *Elizabeth*. Divines, such as Bishop *Bilson* and Mr. *Hooker* being wholly ignorant of these Doctrines, nay, teaching in several places of their Writings the quite contrary. Nor was this Doctrine of absolute Subjection, and Non-Resistance ever generally maintained, until about the middle of King *James's* Reign, when some Court Bishops and Divines began to make new Discoveries in Politicks as well as Divinity, and did by their Preaching and Writings affirm that the King had an absolute Power over Mens Estates, so that it was unlawful in any Case to disobey or resist his Personal Commands, if they were not directly contrary to the Law of God, as may appear by Dr. *Harpsnet* then Bishop of *Chichester*, his Sermon upon this Text, *Give unto Cæsar the things that are Cæsar's*, wherein he maintained, *That all the Subjects Goods and Money were Cæsar's*, that is, the Kings, and therefore were not to be denied him if he demanded them for the publick use; which Sermon, (tho order'd by the Lords and Commons to be Burnt by the Hangman) yet was so grateful to the Court, that he was so far from being out of Favour for it, that he was not long after Translated to *Norwich*, and from thence to the Archbishoprick of *Tork*. So likewise about the beginning of the Reign of King *Charles* the First, Dr. *Manwaring* preached before him, the substance of whose Sermon was somewhat higher than the former, (*viz*) That the King was not bound by the Laws of the Land, not to imple Taxes or Subsidies without the Consent of Parliament, and that when they were so imposed, the Subjects were oblig'd in Conscience, and upon pain of Damnation to pay them; which if they refused to do they were guilty of Disloyalty and Rebellion. For which Sermon he was Impeacht by the Commons in Parliament 4. *Car. I.* and thereupon Sentenced by the House of Lords, to be disabled to hold or receive any Ecclesiastical Living, or Secular Office whatever, and also to be Imprisoned, and Fined a Thousand Pound. Notwithstanding all which, we find him presently after the Parliament was dissolved, not only at liberty, but also presented by the King to a Rich Benefice in *Essex*, and not long after made Bishop of *St. Davids*. So likewise one Dr. *Sibborth* about the same time preached an Assize Sermon at *Northampton*, on *Rom. 13. 7.* wherein he maintained much the like Doctrines, as that it was the King alone that made the Laws and that nothing could excuse from an active Obedience to

Vide Bilson of Christian Subjection, Edit. 1586. p. 279, 280.

Hooker's Ecclesiast. Policy, L. 1. p. 11.

R. H. C. p. 605.

ib. 635.

his

*Vide Archbishop
Abbot's Narra-
tive, R. H. C.
p. 434.*

his Commands, but what is against the Law of God and Nature: And that Kings had Power to lay Pole Money upon their Subjects Heads. But this much I have read, that this Sermon was Licensed by Dr. Laud then Bishop of E. Davids, because Archbishop Abbot had refused to do it as contrary to Law, for which he was very much frowned upon at Court, and it is supposed to have been one of the main causes of his Suspension from his Arch-Episcopal Jurisdiction, which not long after happened. But as for this *Sithorp*, tho he lived long after (even till the Kings Return) yet being (as Archbishop Abbot describes him) a man of but small Learning, I cannot learn that he was ever preferred higher than the Parsonages of *Brachley*. and in *Northamptonshire*.

But I find a New Doctrine broach'd by some Modern Bishops and Divines about the middle of the Reign of King James the First. That Monarchy was of *Divine Right, or Institution at least*; so that any other Government was scarce warrantable or lawful; and of this New Sect we must more especially take notice of Sir R. F. who hath written several Treatises to prove this Doctrine, and which is worse, That all Monarchs being Absolute, they cannot be limited or obliged either by Oaths, Laws or Contracts with their People, farther than they themselves shall think fit, or consistent with their supposed Prerogatives; of which they

F. P. c. 3. § 7, 8.

only are to be the Sole Judges: So that whoever will but consider from the Reign of our four last Kings, whose strong Inclinations they had to render themselves Absolute, and that few Divines, or Common, or Civil Lawyers were prefer'd in their Reigns to any considerable Place, either in Church or State, who did not maintain these New Opinions both on the Bench and in the Pulpit: You need not wonder when the Stream of Court Preferment ran so strong that way, if so many were carried away with it; since it was but to expose themselves to certain misery, if not to utter ruin, to oppugn it. All who offered by Speaking or Writing to maintain the contrary, being branded with the odious Names of Puritans, Common-Wealths-men, Whigs, &c. some of whom you may remember were not long since Imprisoned, Fined, nay, Whipt for so doing. So that it was no wonder if there were but very few to be found who durst with so great hazard speak what they thought, nor could any thing but the imminent danger upon our Laws, Religion and Properties, proceeding from the Kings Illegal practices have opened the Eyes of a great many Noblemen, Gentlemen and Clergy, who contrary to the Opinions so much lately in vogue, did generously venture both their Lives and Estates, to joyn their Arms with the Prince of Orange against the King's unjust and violent Proceedings.

M. I do not doubt, notwithstanding all you have said, to prove before I have done, these Doctrines of Non-resistance. and of the Divine Institution of Monarchy to be most consonant to the Word of God, and to the Doctrine of the Primitive Church, and also to that of our Reformed Church of Engl. Nor were those Divines you mention in K. James the First's time, the Authors or Inventors of these Doctrines which were publicly received, and decreed by both Houses of that Convocation which began in the first year of K. James, and continued till the year 1610. as appears by divers Manuscript

manuscript Copies of the Acts or Decrees of this Convocation, the Original of which was lately in the Library founded by Dr *Cousins* late Bishop of *Durham*, besides a very fair Copy, now to be seen in the Archbishops Library at *Lambeth*: which if you please to peruse, you may be quickly satisfied that the Church of *England* (long before ever Sir R. F. writ those Treatises you mention) held that Civil Power was given by God to *Adam* and *Noah*, and their Descendants, as also that absolute subjection and obedience was due to all Sovereign Powers, without any resistance; as claiming under those Original Charters: These Doctrines being there fully and plainly laid down and asserted, as the Doctrines of our Church: So that you deal very unjustly with the memory of those Divines, as also of Sir R. F. to make them the first broachers of it, whereas you may find that it was the opinion of the whole Convocation, for many years before ever those Divines, or that Gentleman began to Preach, or write upon this subject; Nor were these the only men who maintained these Principles, but Archbishop *Usher* and Bishop *Sanderfon*, (whom I suppose you will not reckon among your flattering Court Bishops) have as learnedly and fully asserted those Doctrines, you so much condemn, as any of that party you find fault with, and have very well proved all resistance of the Supreme Powers to be unlawful, not only in absolute but limited Monarchies. Of the Truth of which you may sufficiently satisfy your self, if you will but take the Pains to read the Learned and Elaborate Treatises written by those good Bishops, (*viz.*) The Lord Primate *Usher's* Power of the Prince, and Obedience of the Subject, and the Bishop of *Lincoln's* Preface before it, as also the said Bishop's Treatise de *Juramento*, written whilst he was Doctor of the Chair in *Oxford*.

F. I must beg your pardon, Sir, if I have never yet seen or heard of that Convocation Book you mention, much less of the opinions therein contained, since there is no mention made of their proceedings, in any History or Record of those times either Ecclesiastical or Civil, as I know of. But this much I am certain of; That these Determinations or Decrees you mention, (call them which you please) never received the Royal Assent, much less the confirmation of the King and Parliament, one of which (if not both) is certainly requisite to make any opinion either in Doctrine or Discipline to be received by us Lay-men for the Doctrine of the Church of *England*, otherwise the Canons made in 1640 would oblige us in Conscience, tho' they stand at this day condemned by Act of Parliament: so that however, even according to your own Principles, you cannot urge this Book as the Authoritative Doctrine of the Church of *England*, unless their Determinations had received the Royal Assent: which you your self do not affirm they had, for you very well know that, as in Civil Laws, no Bill is any more than waste Parchment if once the King hath refused to give his Royal Assent to it, so likewise in Spiritual or Ecclesiastical matters, I think no Decrees or Determinations of Convocations are to be received, as binding either in points of Faith or Manners by us Lay-men, till they have received the confirmation of the King, and the two Houses of Parliament; or otherwise the consequence would be, that if the King who hath the nomination of all the Bishopsricks and Deaneries, as also of most of the great Prebendaries in *England*, of which the Convocation chiefly consists, should nominate such men into those places, which would agree with him to alter the present established Reformed Religion and Government, and to bring in Popery or Arbitrary Power

Power, the whole Kingdom would be obliged in Conscience to embrace it, or at least to submit without any contradiction, to those Canons the King and Convocation should thus agree to make, which of how fatal a consequence it might prove to the Reformed Religion in this Kingdom, this Kings choice of Bishops and Deans, such as he thought most fit for his turn, would have taught us when it had been too late.

M. You very much mistake me Sir, if you believe that I urge the Authority of this Book to you, as containing any Ecclesiastical Canons, which I grant must have the Royal Assent, but whether that of the two Houses of Parliament, I very much question, since the King without the Parliament is Head of the Church, and diverse Canons made under Queen *Elizabeth*, and King *James* are good in Law at this day, tho' they were never confirmed by Parliament. But I only urge the Authority of this Book to you, to let you see that these Doctrines are more Antient than the time you prescribe, and also that the Major part of the Bishops and Clergy of the Church of *England*, held these Doctrines which you so much condemn, long before those Court Bishops or Divines you mention, meddled with this controversy, and I suppose we may as well quote such a Convocation Book, as a Testimony of their sense upon these subjects, as we do the *French*, *Helvetian*, or any other Protestant Churches Confessions of Faith, drawn up and passed in Synod of their Divines, tho' without any confirmation of the Civil Power.

F. If you urge this Convocation Book only as a Testimony, and not Authority, I shall not contend any farther about it, but then let me tell you, that if the Canons or Decrees of a Convocation, though never so much confirmed by King and Parliament, do no farther oblige in Conscience, than as they are agreeable to the Doctrine of the Holy Scriptures, sure their determinations without any such Authority can only be look'd upon as the Opinions of so many particular private Men. And tho' I have a very great Reverence for the Judgments of so many Learned Men; yet granting those Doctrines you mention to be contained in this Book, I think notwithstanding, that we may justly examine them according to the Rules of Reason, and express Testimonies of Scripture, by either of which, when I see you can convince me of the falshood of my Tenets, I shall count my self happy to be better informed. But as for those Treatises of Bishop *Usher*, and Bishop *Sanderfon* which you now mention'd, I must needs confess they are learnedly and elaborately written, and tho' I am against Rebellion as much as any man, and do believe that subjects may too often be guilty of it, yet am I not therefore convinced that it is absolutely unlawful in all cases whatsoever, even in the most Absolute and Arbitrary sort of Civil Government, for the People when violently and intolerably oppress'd, to take up Arms and resist such unjust violence, or to join with any Forreign Prince who will be so generous as to take upon him their deliverance. So that though I freely acknowledge that those good Bishops you mention, were very Pious and Learned men, and that I bear great reverence to their memories, yet doth it not therefore follow, that I must own them to be Infallible, or as great Politicians as they were Learned Divines; or that they understood the Laws of *England* as well as they did the Scriptures or Fathers; and perhaps there may be a great deal more said on their behalfs than can be for divers others, who have since Written and Preacht so much upon those subjects, for if you please

please to consider the times of their writing those Treatises, you will find them written about the beginning or middle of the late Civil Wars, which they supposed to be begun and carried on contrary to all Law and Justice, under the pretended Authority of the two Houses of Parliament against King *Charles* the First; and therefore it is no wonder if they thought themselves obliged to write very high, for the Prerogatives and Rights of Princes, and the absolute obedience of subjects: when they saw even the Kings just and lawful Prerogatives in danger to be taken from him by force. And altho' they may perhaps stretch several of these points too far, yet this may be very excusable, since it is a hard matter to write so exactly against any error as not to fall into the contrary extrem, which nevertheless may sometimes prove useful enough: As those who would set a stick straight are forced to bend it to the other side: and so these Doctrines which might then be seasonable, whilst the People carried on their animosities against the King, farther than in Justice they ought, have not now the same reason and cogency when this King hath so manifestly endeavoured to pull up the very foundations both of our Religion and Government. So that I am persuaded, could those good Bishops have lived by the course of Nature to our times, and have seen the ill and fatal use hath been made of those Doctrines by those in Power, they would either absolutely have renounced them, or at least have been very cautious how they published such doubtful opinions to the World.

M. I must beg your pardon Sir, if I am not of your opinion, for I look upon the absolute subjection of the subjects to the higher or supreme Powers to be a thing of such constant and eternal obligation, that no change of times or circumstances can ever dispense with us in, or discharge us from it; and I am so far from believing that those good Bishops would ever have recanted their opinions in this particular, that had they lived until this time, I think they could not, without the imputation of time servers, have forborn publicly to declare and maintain them: for sure we must not deny or lay aside true Principles, because of some inconveniencies or hardships that may thereby happen to our Religion, Persons or Civil Liberties, since that were the ready way to give a Licence to the rankest Rebellion, and the highest disobedience to the Supreme Powers, for so the Primitive Christians might have claimed a right to rebel against the Heathen Emperors, pretending they were not bound to submit themselves unto them, because they persecuted Gods Church, and put the Christians to death for no other reason than that they were such. Whereas we may plainly see *St. Peter* and *St. Paul* teach us another lesson, and command *absolute subjection without reserve* to the higher Powers, which were then the tyrannical persecuting Emperors, and that the Primitive Christians who immediately followed the Apostles, understood them in this sense; and altho' they had sufficient strength, yet thought it unlawful to resist those Heathen Emperors under which they lived. I refer you to that vast treasure of Quotations, out of the Fathers and Ancient Church Historians, collected with such learning and industry by the Lord Primate *Usher* in the second Treatise.

F. It is not my intention Sir, at present to fall into a severe examination of so many texts of Scripture and Quotations of Fathers and other Authors, as are made use of by those Learned men you lately mentioned, which require
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more consideration than our short time will now afford, therefore the best method I can propose to you for the true stating and understanding this Noble Controversie, were first to look into the Natural state of Mankind, after the Fall of Adam, and enquire, *First*, If God has appointed any kind of Government by *Divine Institution* before another. *Secondly*, If he has not; how far Civil power may be lookt upon as from God, and in what sense, as deriv'd from the people. *Thirdly*, Whether Resistance by the Subjects, in some Cases, be incompatible and absolutely destructive to all Civil Government whatsoever. *Fourthly*, Whether such Resistance be absolutely contrary to the Doctrine of Christ contain'd in the Scriptures, and that of the Primitive Church pursuant thereunto. *Fifthly*, Whether such Resistance be contrary to the Constitution of this Government, and the express Laws of the Land. *Sixthly*, Whether what has been done by the Prince of Orange, and those of the Nobility, Gentry, &c. in pursuance of these Principles, has been done according to the Law of Nature, the Scriptures, and Ancient Constitutions of this Kingdom; which material Points, if we can once settle, and discover where the Truth lyes, it will prove the clearest Comment and best Interpretation of all those places of Scripture, and Quotations of Fathers, and other Authors which are Cited by Divines or other Writers, for the Doctrines of the *Divine Institution* of Monarchy, and the Absolute Subjection of Subjects without any Resistance. For when we have once discovered what the Law of Nature or right Reason dictates; I think we may rest satisfy'd that that is the true Sense of the Scripture: God not having given us any Precept or Command, in Moral, or Practical things, that can be contrary to the Law of Nature or Reason; or incompatible with the happiness and welfare of Mankind in this Life; as the Reveald Will of God does chiefly regard that which is to come.

M. I do very well approve of your Proposal, and therefore pray give me first your Opinion on those Heads, that I may see how far I may agree with you, and wherein I must differ from you; for I do assure you my Intention is not to argue with you merely for disputes sake, but that we may correct the Errors of each others understanding, and discover, if it be possible, where the Truth lyes; therefore pray Sir, begin first with the Natural state of Mankind, but remember to do it like a Christian, and one that believes that we are all deriv'd from one first *Parents*, and that we did not at first spring up out of the Earth like Mushrooms, or as the Men whom *Ovid* feigns to have been produc'd of the Dragons Teeth *Cadmus* is feigned to have town, who as soon as they sprung out of the Earth, immediately fell a Fighting and Killing each other.

P. I thank you Sir for your honest and kind advice, and shall therefore in the first place suppose, that the necessity as well as being of all Civil Government, proceeded from the Fall of Adam, since if that had not been, we had still liv'd as the Poets fancy Men did under the Golden Age, without any need of Kings or Common-wealths to make Laws against Oppression, Theft, Adultery, Murder, and those other Injuries which Men are now too apt in this dapl'd corrupt state to commit against each other, much less would there have been any need of Judges or Executioners, either to sentence or punish Offenders, for if Man had continued as free from Sin as he was in Paradise, there could have been no need of a Supream Coercive Power, since every Man would have perform'd his Duty towards God and
his

his Neighbour without any punishment or constraint. So that all the Authority that can be suppos'd could have been then necessary for the Good and Happiness of Mankind, would have been no more than that of the Husband over his Wife, or that of Parents over their Children, the former of which would not have been an Absolute Coercive power neither, but rather such a power as his understanding then had over the inferior Faculties of his Soul, join'd with a *voluntary submission of her will to his*, the Coercive power of the Husband, and his more absolute Rule over her being conferr'd by God on *Adam*, and in him on all his posterity after the Fall, for the regulating and restraining the unreasonable desires and passions of the Woman, which then began to exert and shew themselves in her; and as for paternal Authority, that would have been so far from being Coercive, that Children having no Inclination to disorder either in their Wills, Appetites or Passions, there would have been so little need of punishments, that they would not have required so much as reproof or correction: God having planted the Laws of Nature or Reason in every Mans Breast, then free from Rebellious Motions against it; so that Children then could have had no more to do, than to pay their Parents all that Gratitude, Duty and Obedience which was due to them as the subordinate Causes of their Being, which could only consist in performing those indifferent things, which they then would have had occasion to command them, since Mankind being Immortal, and the Earth bringing forth of it self all Necessaries for Humane Life, there could have been no occasion of attending and relieving their Parents when Sick, Old or Decrepit, and unable to keep themselves; and so likewise upon the same grounds all other Men would have been equal by Nature, in respect of any civil difference; for when there was no necessity of Mens Service, there would have been no distinction between Master and Servant: But after the Fall, the state of Mankind was altered, and Self-love, and the desire of Self-preservation grew so strong and exorbitant above all Natural Equity, that the inordinate passions of Men blinding their Reasons. they began to think they had a Right not only to the Necessaries of Life, but to whatever their unruly Appetites desired, or that they thought they could make themselves Masters of. To remedy which Inconveniences, I suppose the Fathers and Masters of Families, and other Freemen (in whom alone then resided that little Government that then was in the World) were forced after some time to agree upon one or more Men into whose hands they might resign all the particular powers, and to make Laws for the due Governing and Restraining those disorderly Appetites and Passions, and also endowing them with a sufficient Authority to put them in Execution: But which of the Governments now extant, or that have been formerly, were Prior in Nature, I think cannot well be known; whether it was a Monarchy, or an Aristocracy, consisting of all the Heads or Fathers of Families, or Freemen, is not material, since the *SS.* are silent in it; but it being sufficient to suppose, that it was at first begun by the persuasion or mediation of some one or more Wise and Vertuous persons, and was consented to by the whole number, consisting of many Families, who were sensible of those great Inconveniences and Mischiefs they lay under for want of Civil Government. But be it which way it will, 'tis most certain that it was *principally intended by God, for the Good and Preservation of the Governed, and not for the Greatness or Advantage of the Person or Persons appointed to Govern,* since

God designed all Civil Government for the restraining of Mans inordinate Passions and Lusts after the Fall, and procuring by sufficient rewards and punishments, that Peace and Happiness which could now no longer be obtained by Mens Natural Inclinations to that which was equitable and honest; and besides, it is absolutely impossible to suppose, that any great number of people not pressed by the Invasion of a powerful Enemy from abroad (which could not be supposed in this early Age of the World) would ever be brought to consent to put themselves under the absolute power of others, but for their own greater Good and Preservation, or to part with their Natural Liberty without advantaging themselves at all by the Change.

M. I will not take upon me to assert after what manner Mankind would have been governed in case our First Parents had continued in their Primitive state of Innocency. But this much I think I may boldly affirm in opposition to what you have already said, that Civil Government after the Fall was not alike in all the Fathers and Masters of Families, but that Adam alone was by God endued with it, as the great Father and Monarch of Mankind; so that not only Civil Power, *in genere*, but in *R. F. A. M. M. specie*, (*viz.*) Monarchical, was immediately after the Creation conferred by God upon him. And Adam was Monarch of the whole World even before he had any Subjects.

F. Sir, not to interrupt you, it seems somewhat hard to conceive how Adam could be a Father before he had Children, or a Monarch before he had Subjects.

M. If you please to consider it, you will find no absurdity at all in this Assertion. For though I confess there could be no actual Government without Subjects, nor Fatherhood without Sons; yet by the Right of Nature it was due to Adam to be Governour of the World, when as yet he had neither Sons, nor Subjects, so though not in act, yet at least in habit, or in *Potentia* (as they say in the Schools) Adam was a King, and a Father, from his Creation, and even in the state of Innocency, he had been Governour over his Wife and Children; for the Integrity, or Excellency of the Subjects doth not take away the Order, or Eminency of the Governour: For Eve was subject to Adam before he sinned, and the Angels who are of a most pure Nature, and cannot sin, are yet Subjects to God, and perform all his Commands: Which will serve to confute what you say in derogation of Civil Government, or Power, that it was introduced by Sin, or the Fall of Man. Government, I grant as to coercive Power was not till after Sin, because Coaction supposeth some disorder which was not in the state of Innocency; but as for directive Government, the State of Humane Nature requires it; since Civil Society cannot be imagined without a Power of Government. For although as long as Men continued in the State of Innocency, they might not need the direction of Adam in those things that were necessarily and morally to be done. Yet things indifferent that depended meerly on their Free-will, might well be directed by Adam's sole Command.

F. Pray, Sir, give me leave to settle this Point between us, before you proceed farther, and I doubt not when you better consider what I say, you will not think we have any just occasion to differ. So far then you and I are agreed, that even before the Fall, Adam was superior over his Wife and Chil-

Children, and that they owed him, not only Gratitude and Respect, as a Parent, but also Obedience in all indifferent things : Yet I deny that this Power or Superiority of *Adam* over his Wife and Children, was at all a Despotical or Civil Power, but meerly Oeconomical, for the Good and Convenience of *Adam*, and the well-ordering and preservation of his Family ; which you will easily grant, if you please to consider what are the Essential Differences of Civil Government from Oeconomical. Now the Essential Properties of Civil Government consist in preserving and defending the Subjects, both in War and Peace. from Forreign Enemies, and Intestine Injuries, and invasions of Mens Persons or Properties, and in revenging and punishing all such Transgressions by Death, or other Punishments, and consequently in making Laws concerning Property, and for restraining all Robberies, Murders, and the like. Now, in the state of Innocency there could be no need of any of these Essential Functions of Civil Power ; for your self must grant, that Man was then not apt to Sin, and Immortal ; so that all Laws about Peace or War, Punishments of Offences, publick Judgments concerning *Meum, & Tuum*, and all Injuries, were absolutely needless, and had never been in Nature, if *Adam* had not sinned ; and then how you can call this Authority, or Superiority (which I grant *Adam* had over his Wife and Children) Civil Power, I can by no means understand.

But I do utterly deny that even after the Fall, *Adam* was a Monarch, or sole and absolute Lord over the whole Earth, and all Creatures therein contained ; and desire you to give me such plain proofs of it, either from Reason, or Scripture, that I need no more doubt of it, than your self.

M. I shall, first of all give you an Argument drawn from the reason of the thing, and in the next place, the Authority of Scripture, for my Opinion : and first, I think it is evident that every Man that is Born, is so far from being Free, that by his very Birth he becomes a Subject of him that begets him ; and even *Grotius* himself acknowledges that, *Generatione Jus acquiritur in liberos*. And indeed, the Act of Begetting, being that which makes a Man a Father, his Right of a Father over his Children, can Naturally arise from nothing else ; and the same Author in another place hath these words upon the Fourth Commandment, *Parentum nomine, qui naturales sunt Magistratus, etiam alios Rectores par est intelligi, quorum autoritas Societatem humanam continet* : And if Parents be natural Magistrates, Children must needs be Born Natural Subjects. So that, not only *Adam*, but the succeeding Patriarchs had, by Right of Fatherhood, Regal Authority over their Children, as may appear by divers Testimonies out of Scripture, and therefore it is very reasonable that all Fathers should have a Power over the Lives of their Children, since it is to them that they owe their Life, Being and Education ; and I think that even the Power which God himself exerciseth over Mankind is by Right of Fatherhood.

F. Before you come to Scripture, give me leave, in the first place to examine your first Argument, which you deduced from the Law of Nature or Reason : For I doubt, if you please better to consider of it, you will find that so light and transitory an Action, as that of Generation, cannot give any Man an absolute Property and Dominion over the Person and Life of those whom he Begets ; since few Men do principally intend the giving of a Being

to another, so much as they do their own pleasure, is that Affion; nor do we owe our Lives, properly speaking, to our Parents, but to God, who is the true and original Cause of our Being, though it is true, he makes use of our Parents as Physical, though not as Moral Means or Instruments for that end; since it doth not lye in their power to hinder their Generating of Children, if they perform the Acts necessary thereunto; so that both the antecedent and the consequent are altogether false, viz. That Parents give their Children, Life and Being, and that therefore they have an absolute power over their Lives and Persons; which if it were true, would give the Mother an equal Title to the Lives of the Children, as the Father, seeing they owe their Lives as much to the one as the other: Which power in the Mother, I am sure you will not admit of. But as for what you say concerning the power of Fathers, arising from Education, though I confess that is a much better Title than the other: Yet doth it not follow, that, because by reason of my Parents care of me before I was able to help my self, I owe my preservation and well being to them; that therefore they are to be perpetual and absolute Lords over my Person and Life: Since by thus breeding me up, they only perform'd that Duty, and Trust which God had laid upon them, for the good and preservation of Mankind, and which they could not without committing a Sin, either refuse or decline, and therefore their Authority or Power over my Person, being only for my well-being, can extend no farther than whilst I am not of years of discretion to understand the true means of my own good and preservation: And though I grant that I am bound in gratitude to return this Care and Kindness by all Acts of Duty and Piety towards them, as long as I live; yet doth it not therefore follow, that they are Masters of my Life, and of all that I have; since this were to take away more than they themselves ever gave; and though I should grant you that even the Power which God himself exerciseth over

Mankind is by Right of Fatherhood; yet this Fatherhood
 T. T. G. c. 5. is such, as utterly excludes all pretence of Title in Earthly
 p. 69. Parents; for he is our King, because he is indeed maker of
 us all, which no Natural Parents can pretend to be of their

Children: but if you please more closely to consider your own Argument, you will find that it will quite destroy your Hypothesis. For if all Fathers have an absolute power over their Children, by Generation, then Adam could only have power over his own Children which he begat, and none at all over his Grand-Children, since their Fathers by this Argument of Generation ought to have had the same power over their Children, which Adam had over them, for the same reason: So that this Monarchical Power of Adam as a Father could extend no farther than one Generation.

M. I shall not further urge this Argument of Generation, since I see you are not satisfied with it; but this much I think I can clearly prove from Scripture, that Adam was Lord over the Persons and Lives of his Wife and Children, by virtue of that command which God gave Eve, Gen. 3. v. 16. *Unto the Woman he said, I will greatly multiply thy sorrow and thy Conception; In sorrow thou shalt bring forth Children, and thy desire shall be to thy Husband, and he shall rule over thee.* From which words it appears that Adam had not only an absolute Power granted him by God over his Wife, but all the posterity that should be born of her. For in the first place it here

appears

appears that *Eve* was to yield an absolute Subjection to her Husband; who was to rule over her as her Lord, from these words, *and thy desire shall be [subject] to thy Husband*, (as it is better exprest in the Margin) *and he shall rule over thee*. And if his Wife was thus to be subject to him, then likewise by a parity of reason all her Children *B. P. P. § 31.* were to be so too: it being a maxime in the Law of Nature, as well as in the Civil Law, that *Partus sequitur ventrem*: so that if *Eve* was to be absolutely subject to *Adam*, the Issue by her must be so too, as in the case of a *Master of a free Slave*, not only the person of the Woman, but all that are begotten of her either by her master or any other man, are likewise his servants, otherwise the Children would be in a better condition than their Mother, for *Adam* having no Superiour but God, both his Wife and Children must have been alike subject to him. There is likewise another rule in the Civil Law, which is a voice *Ib. § 32.*

of Nature too, *quicquid ex me, & uxore mea nascitur, in potestate mea est*, and tho' this is true in some sense in all Fathers whatsoever; yet it was so in a more superlative degree, where the Father had no Superiour over him but God; as *Adam* had not; and farther it seems apparent to me from the very method that God *Ib. § 20, 21.* us'd in Creating Mankind that *Adam's* Wife and Children should be subject to him: for if *Adam* and *Eve* had been created at once, it could not have been known which of these two had the best right to command, and which was to obey. For *Adam's* strength or wit alone, would not have given him any authority over her, and it might be that *Eve* was as strong and as wise as he, or at least she might have thought her self so, and if these two had differ'd and fought, nought but the event could have declared which of them should have been Master.

So when they had Children born between them, the Children could have told as little which of the Parents they should have obey'd, in case they had differ'd in their commands: so that it had been impossible this way that any Government could have been in the World. But when God created only one Man, and out of him one Woman *Ib. § 22.*

was made, sure he had some great design in this, for no other creature was thus made at twice but Man. Now *St. Paul* shews a reason for Gods acting thus, when he *§ 24.*

says, the Woman should not teach, nor usurp authority over the Man, &c. And mark the reason; for *Adam* was Created and then *Eve*. So that in the Apostles Judgment this was one main cause why

Adam should be Superiour to his Wife and all other Husbands to their Wives; and in the *Corinthians* *§ 25.*

History of the Creation the same Apostle deduces two other Reasons, for the Superiority of the Man over the Woman. For (says he) *the Man is not of the Woman, but*

the Woman of the Man; (that is, *Eve* was formed out of *Adam*) neither was *the Man* Created for the Woman, but the Woman for the Man: So that you see here is *Adam* stated in a degree of Superiority over his Wife before the Fall: and immediately after it, God again renewed *Adam's* Title, when he told *Eve* (as I have but now mention'd) *§ 26.*

thy desire shall be subject to thy Husband, and he shall rule over thee; now I so far agree with what you at first lay'd down; that if the fall had

had not disordered her faculties, and rendered her apt and prone to disobey her Husband, this command need not have been given her, but she would have known her duty from the order and end of the Creation, without this explicate positive command.

F. You have Sir, taken a great deal of pains to prove that which I do not at all deny, that as well before as after the Fall, Adam (and consequently all other Husbands and Fathers) ought to be Superiour to their Wives and Children, and likewise Govern and Command them in all things relating to their own good and that of the Family, as long as they continue Members of it: nay, that after Children are separated from their Fathers Family, they still owe their Parents all the gratitude, duty, and respect imaginable; but yet I deny that this power which Adam had over Eve, and his Issue by her, and all other Husbands have over their Wives and Children, is a regal despotical power, or any more than Conjugal in respect of his Wife, and Paternal in respect of the Children, nor is that filial reverence and obedience which Children yield their Fathers, the same with that respect and duty which a Wife owes her Husband, or the same with that servile subjection which slaves owe their Lord and Master; neither is the duty of a Wife of the same kind with that which Sons pay their Fathers, or Slaves their Lords; nor did Sarah when she called Abraham Lord (who was then Master of a separate Family, and so subject to none) ever suppose that her Husband had the same Authority over her as he had over Hagar her Bondswoman, to sell her, or turn her out of doors at his pleasure: but to make it more apparent to you, that this power granted to Adam over Eve, was not regal nor despotical, but only conjugal, and for the well ordering of the Family, where some one must command in chief, and the rest obey to avoid confusion, will appear, first, If you consider that this subjection of Eve to Adam was not enjoyn'd till after the fall, and is part of Gods Judgments denounc'd against her, for tempting her Husband to eat the forbidden fruit, and certainly included somewhat more than that Superiority which he had over her by his Creation, or else God should not have made it any part of the Judgment denounc'd upon her. If this submission she ow'd to her Husband before the Fall, had been of the same nature with that subjection she was to be under after it; which yet I take to be neither servile nor absolute, but only a conjugal obedience or submission of her will to his, in all things relating to the Government of the Family and the carriage of herself; though I do not deny but the Husband may sometimes restrain her by force, in case she carries her self unchastly, or indiscreetly, to the loss of her reputation, and prejudice of his interest, when she will not be directed, or advis'd by his persuasion, or commands, which before the Fall when she was in a state of Innocency there was no need of; since, (as your self grant) before the Fall she knew what was her duty, and performed it without any force or constraint, &c. and therefore that text which you have now quoted out of *Genesis*, *thy desire shall be [Subject] to thy Husband, and he shall rule over thee*, is not fairly cited, for as for the Marginal addition, viz (*subject*) to thy Husband, it is not warranted from the Hebrew Original or version of the LXX. The Hebrew having no more than (*thy desire shall be to thy Husband*) which the LXX renders ἀποσχη, i. e. the conversion or inclination of the desire; by which some Interpreters understand no more than the carnal Appetite: so likewise from the words
(rule

(*rule over thee*) they likewise observe that *Moses* makes use of the same Hebrew word, when he makes mention of the Sun and Moon ruling the Day and Night, tho they do not do it by any violence, or corporeal force; so likewise by this ruling of the Husband, is not to be understood any absolute, despotick power, whereby he hath a right to dispose of the person and actions of his Wife in all things at his pleasure, but that the may in many cases refuse, nay controul his commands, and resist his actions, in case they prove unlawful or destructive to her self and Children.

But that this Argument of *St. Paul* of the Husband's Superiority over his Wife, was not granted to *Adam* alone but equally extends to all Husbands whatsoever, appears from the very Text it self, or otherwise *St. Paul* had argued very impertinently of the duty of all Wives; and if so, it will follow that every one of *Adam's* Sons as soon as he took a Wife, had the like Authority over her as *Adam* had over their Mother; And if over their Wives, then by your Maxims (*of partus sequitur ventrem*) & *quicquid ex me & uxore mea nascitur, in potestate mea est*, all the Sons of *Adam* must have had the same Power over their Children as their Father had over them: So that the same consequence will still follow from these places of Scripture, and also from your Civil Law Maxims, that either *Adam* had no Civil, or Despotick Power over his Wife, and Children, or else, if he had, that every one of his Sons when Married, and separated from his Fathers Family had the same, and consequently there were as many Princes as distinct Masters of Families, and then what would become of *Adam's* Monarchy, I give you leave to Judge.

M. I must beg your pardon if I am not satisfied with your answer to my last argument: For I am still of opinion notwithstanding what you have said, that *Eve* was to yield an absolute subjection to her Husband, from that place already cited, *That her (viz. Eve's) desire (i. e. will) should be subject to her Husband*, &c. To which you answer that this subjection of *Eve* to *Adam*, was not the same which Sons owe their Fathers, or Slaves to their Lords; And that *Eve* owed *Adam*, not a filial, or servile, but a conjugal subjection. For I would fain *B. P. P. §* know the difference in the State of Nature, between one 27, 28. and the other: For if you please to compare that place of *Genesis*, I but now quoted with that other, where God gives *Cain* power over *Abel* his Younger Brother, you will find them the same in words as also in sense. For in this God likewise tells *Cain*, *That unto thee, shall his desire be subject and thou shalt rule over him.* *Gen. 4. 7.* And sure God could not intend by these words, that *Abel* should yield a Conjugal, but a filial subjection to his elder Brother, and these words are not capable of two senses, but must be understood a like in both places (*i. e.*) That the Desire (which is a Faculty of the Soul, and that the most active too) was to be subject, and the body, and all the Powers of it, were to be over-ruled by him; which is as full and absolute a subjection as can be express'd in words; and whereas you say that these words were not spoken till after the Fall, and thence seem to infer, that *Eve* did not owe *Adam* so much as a Conjugal Subjection before that; *St. Paul* hath given you an answer to that already, which it is needless to repeat, and therefore upon the whole matter I think your distinction of a Conjugal Subjection different from a Filial or Servile one, will signify nothing.

F. I doubt not, Sir, but I shall be able to make good this distinction of a Servile and a Filial Obedience, and in order to it, I shall reply to the consequence you have made, for *Eve's* absolute subjection to *Adam* from the like Expression used by God to *Cain* concerning his ruling over his Brother *Abel*, as is us'd here to *Eve* concerning her subjection to her Husband; and that because the subjection of *Abel* was absolute, that therefore her subjection must be so too. I must crave your pardon if I deny your Assumption; for I think I am able to prove, that neither *Abel*, nor any other younger Brother, was, or is obliged, by virtue of this Text to yield an absolute Obedience to his Elder Brother, in the stare of Nature, or that he is therefore his Lord and Master. Nor can I see any absurdity, but that the same words might be spoken to several Persons, yet in different senses, which according to the Nature of the Persons to whom they were spoken might have different Effects. As here these words when spoken to *Eve* enjoin a Conjugal Submission of *Eve's* Will to *Adam* as her Husband, but when spoken to *Abel* they may signify a Fraternal Submission of *Abel's* Will to *Cain's* as the Elder, and perhaps the wiser of the two, but without giving any absolute or despotick Power over either.

M. I cannot be yet satisfied with your Reply; for methinks this is but to play the Fool, and trifle with God's Word, when he told *Cain* thy Brother's desire shall be subject to thee, that is, (*say you*) Thou shalt rule over him only as far as he thinks fit, or if thou halt the knack to wheedle or persuade him: Was not this a mighty matter for God Almighty to appear to *Cain* about? An excellent and rational way to appease his Wrath towards his Brother? Whereas God here plainly enjoineth a subjection from *Abel* to his Elder Brother, and if so, by Vertue of the same words, a like subjection of *Eve* to *Adam*, and then it will likewise follow, that as the streams are of the same Nature with the Fountain, the subjection of all her Posterity will likewise be included in hers, which I have sufficiently proved already, had you not mistaken the true sense of those two Maxims I laid down. For first, if *Partus sequitur ventrem*, and the Mother be a subject, as *Eve* was, all her Posterity must be so to all Generations. And if *Quicquid ex me & uxore mea nascitur in possessione mea est* be true, then *Adam's* Grand-Children, and Great-Grand-Children, deriving themselves from him and *Eve*, must be likewise under *Adam's* power. Nor can I see how his Sons, or Grand Children, by setting up separate Families, could ever discharge themselves from this absolute subjection to *Adam*, since they could never have quitted his Family without his consent; and when they did quit it, unless he pleased to manumit them, they, their Wives and Children were still as much subject as they were before. Since I do not see if they were once Subjects to him, how any thing but his express will and consent could ever discharge them from it. Nor was that Authority (which every one of these Sons of *Adam* might exercise over their Wives and Children, though they were not freed from the power of their Father) any more inconsistent with that subjection and obedience they owed him, as their Prince, than in an absolute Monarchy, the power of Fathers and Husbands over their Wives and Children, as to the things relating to the well-ordering and governing their Families, is inconsistent with that supreme predominant power which the Monarch hath over the Father himself, and all his Family, or than the power of a Master of a Family, in the Isle of *Barbadoes*, over his Slaves that are Married, and have

have Children, is inconsistent with that Marital and Paternal power which such a Slave may exercise over his Wife and Children within his own Family, though still subordinate to the will of the Master, who may forbid any such Slaves, or their Children to Marry, but where he hath a mind they should and may likewise hinder them, from correcting or putting to Death their Wives and Children without his consent. Though such Subjects in an absolute Monarchy, or Slaves in a Plantation cannot have or enjoy any Property in Lands or Goods but at the Monarchs, or Masters will. And so likewise at first none of these Sons of *Adam*, though they set up distinct Families from their Fathers, could enjoy or inclose any part of the Earth without his Grant or Assignment to whom the whole was given by God before.

It seems likewise to be a great mistake, when you at first affirmed that all Civil Government was ordained by God, for the benefit and advantage of the Subjects, rather than the Governours. Whereas from the first and most Natural Government it appears that Children who were the Subjects were ordained as much for the benefit and help of their Parents, who were the first Monarchs, as their Parents for them. From all which we may draw these Conclusions: First, that from *Gen. 3. F. A M M. v. 6.* already cited, we have the Original Charter of Government, and the Fountain of all Civil Power derived from *Adam* as the Father of all Mankind. So that not only the Constitution of power in general, but the special limitation of it to one kind, (*viz.*) Monarchy, and the determination of it, to the individual person of *Adam*, are all Ordinances of God. Neither had *Eve* or her Children any Right to limit *Adam's* Power, or joyn themselves with him in the Government. Now if this Supreme Power was settled, and founded by God himself in Fatherhood, how is it possible for the people to have any Right to alter, or dispose of it otherwise; it being God's Ordinance that this Supremacy should be unlimited in *Adam*, and as large as any Acts of his Will. So that he was not only a Father, but a King and absolute Lord over his Family; a Son, a Subject, and a Servant or Slave being one and the same thing at first, the Father having power to dispose of or sell *F. P. O. A.* his Children or Servants at his pleasure; and though perhaps he might deal too severely or cruelly in so doing, yet there was none above him, except God, in the state of Nature, who could call him to an account, much less resist or punish him for so doing.

F. You have, Sir, made a very long Speech upon the Monarchical power of *Adam*, which you have made of so large an extent, that this imaginary Kingship will swallow up all the other more dear and tender Relations both of a Husband, and of a Father. So that were I not satisfied you were a very good natured Man, and spoke more the sense of others than from your own Natural Inclinations, I should be apt to believe that if you had sufficient Power you would prove as great a Tyrant over your Wife, Children, and all that should be under your command; as such Arbitrary Tenets would give you leave; but since I hope your Errour lyes rather in your Understanding, than in your Nature: I shall make bold to shew you the mistakes you have committed in those Principles you here lay down. I might first begin with the place of Scripture you farther insist upon; for *Eve's* absolute Subjection to *Adam* from the like Expression used by God to

Cain concerning his ruling over his Brother *Abel*, as is us'd here to *Eve*, and tho you are pleas'd to think my exposition of this place so ridiculous; yet I doubt not but I be able to prove, when I come to speak of this pretended Divine Author of Elder Brothers over this younger, that this place cannot be understood in any such sense, according to the best Interpretation that both the reason of the Subject, and the sense the best Commentators put upon it can allow; but I shall defer this till we come to discourse concerning the successors of *Adam* in this Monarchical Power you suppose. And therefore I shall only at present pursue that absolute Power, which you suppose *Adam* to have had, not only over *Eve*, but all her descendants. So that your argument of *Eve's*, and consequently all her Childrens absolute subjection to *Adam*, depends upon a very false supposition. For if the subjection of *Eve* to *Adam*, and of all Wives to their Husbands is not servile or absolute, neither can that of the Children be so, since according to your own simile, if the streams are of the same nature of the Fountain, they can never rise higher than it, and tho' I grant, *Adam* might in some cases have put his Wife or Children to death, for any enormous crime against the Law of Nature, yet I allow him that power, not as a Husband or Father, but only as a Lord or Master of a separate Family, who having no Superiour in the state of Nature, I grant is endued by God with this Prerogative, for the good of his Family, and preservation of Mankind, lest such horrid crimes, so much to its prejudice should pass unpunish'd. But that the Husband or Father doth not act thus in either of these two capacities, I can easily prove.

First, Because the Scripture tells us the Husband and
Gen. 2. 24. Ephes. 5. 29, 30. Wife are one Flesh, and that no man ever yet hated his own Flesh; so that it is impossible for a Husband to put

his Wife to death, till by the greatness of her crimes, she becomes no longer worthy of that tender affection he ought to bear her. Then as to the Father, he, as a Father, ought not to desire to put his Son to death, whose being he hath been the cause of, and who is principally made out of his own substance, and on whom he hath bestowed nourishment and education for so many years, until he finds that instead of a Son he proves an Enemy to his family, or hath so laid wait against his Life, that as long as he lives he cannot be safe; or else commits some of those heinous crimes which by the Laws of God and Nature do justly deserve no less punishment than Death, in short when he ceases any longer to deserve the name of a Son.

Yet this Authority holds no longer than whilst the Son remains part of his Fathers Family, and so subject to his Power, and this I take to be the reason why we do not read, that *Adam* took any notice of *Cain's* murdering his Brother, because he was before freed from his Power, by setting up another Family, which certainly had been *Adams* duty to have done, had he been then under his Jurisdiction, Murder being as great a crime before the

Flood as after, tho the punishment of it by Death were not positively enjoin'd by God till then: But I shall prove this point more particularly by and by, as also, that *Adams*

Children might enjoy, or enclose some part of the Earth without any grant or assent from *Adam*, to whom you suppose (tho' without any proof as yet) that the whole Earth was given by God.

To

To conclude, I doubt you mistook me when you say, I at first affirmed that all Civil Government was ordained by God, for the benefit or advantage of the Subjects, rather than that of the Governours, and therefore you undertake to shew me, that in the first and most natural Government, viz. that of a Family, Children who are subjects in the state of Nature, are ordained as much for the benefit, and help of their Parents, who are their Princes or Masters, as their Parents for them; in which assertion you fall in to more than one mistake, for I do not assert that in Civil Government the benefit or advantage of the Subject, is only to be considered; For I shall easily grant that Princes may very well challenge a very great share in the honour and other advantages that may be reapt by their Government; and yet for all that when the happiness and preservation of the Subjects, is incompatible with that of the Prince, the former is to be preferred, and Bishop *Standeron* is of this opinion; when he tells us in his Lectures

* *De Furamento*; That the end of Civil Government, and the * *De oblig. consc.*
obedience that is due to it, is the safety and tranquillity of hu- *Prat. 5. § 19.*
mane society, and therefore the end is certainly to be pre-

ferred before the means, when they cannot both consist together; but this is no argument for the preferring the benefit or advantages of Parents, before that of their Children, since Paternal Government is not Civil Government; nor are Fathers absolute Princes or Masters over their Children, as you suppose. and yet I think I may safely affirm, that even in this Paternal Government, tho' it be granted that Children are ordained for the benefit, or help of their Parents, yet when their happiness and preservation is inconsistent with that of their Children, it may be a great doubt which is to be prefer'd, since Gods chief intention in Parents, was for the Preservation and Propagation of Mankind; and therefore I cannot see how it could ever be any part of the Paternal Power, for a Father to make his Child a Slave, or to sell him to others at his pleasure as you suppose: This being no part or end of the design or duty of a Father.

And whereas you lay to my charge my mistaking the true sense of those Civil Law Maxims you have quoted; I think I can easily prove that the mistake lyes on your side, and that you have misapplied them, to make them serve your purpose: for as to your first Maxim, *Partus sequitur Ventrem*, from which you infer, that the Child ought to be of the same condition with the Mother, this rule in your Civil Law relates only to Bastards, and not legitimate Children, who follow the condition of the Father according to your Digest: *Qui ex uxore mea nascitur filius mariti est habendus*, so likewise in your Code, *Cum legitime nuptiæ factæ sunt, patrem liberi sequuntur, vulgo quasi matrem sequitur*. Nor is your second Maxim more true; for tho' I grant according to your Roman Law, the Father might have absolute power over his Wife and Children: yet I cannot see how this word *nascitur*, can be extended beyond those that are born of a man and his Wife, and therefore can never concern Grand-children much less any more remote Descendants, and this very Law, that a Son or Daughter might be killed by a Father, seem'd so cruel and odious, even to the Antient Romans themselves, that neither the Law of the XII Tables, nor the *Julian* Law of Adulteries, which were provided against Fathers, Sons, and Daughters, ever extended it to the Grand-father

Dig. 1. Tit. 6. L. 16

Cod. Tit. 19. L. 14.

Dig. Tit. 5. L. 19.

father, Grand-son, or Grand daughter by Interpretation; or argument *à casu consimili*. Nor do these words, in *Potestate mea est*, prove more than that all Children are born under the Power of their Parents, tho' whether they shall always continue so as long as they live; is not to be proved from this Maxim; nor if it were, doth that make it a Law of Nature. For I must needs observe this, of divers of you Civilians, that whatever Maxim you find in your Civil Law Books, that will make for your Notions, you presently adopt them for Laws of Nature, without ever enquiring by the strict Rules of Reason, and the Good of Mankind, (by which alone any Law of Nature is to be tryed) whether they are so or no.

I shall not trouble my self to confute those false Conclusions you have brought from those weak Promises; for if I have destroyed your Foundation, I think your Superstructure cannot stand; and therefore you must pardon me, if I cannot find this Original Charter of Government, and of all Civil Power, to be derived from Adam by any Argument that yet you have brought either from Scripture, or Reason; only give me leave to observe thus much, upon what you have said, *That if not only the Constitution of Civil Power in general, but the special Limitation of it to one kind, (viz.) Monarchy, be the Ordinance of God, I cannot see how any other Government but that can be lawfully set up, or obeyed by Men, since no Government can challenge this Privilege against Divine Institution.*

M. Since this Hypothesis doth not please you, I shall be glad if you can shew me any better Original, either of Adam's Paternal B. P. P. § 35. Power, or of Civil Government, than this, that God gave Adam over Eve, who indeed was as at the first Subject, so the Representative of all that followed, and it reaches not only to all her Daughters in relation to their Husbands, but to all of them in relation to their Fathers, and to her Sons too, in relation to both their Father, and their Eldest Brother after his Decease, if no body Superior to both of them, and him interposed, and diverted, or rather over-ruled it.

For (1.) If a Priority of Being gave Adam a Power over his Wife, it gave him much more so over his Children.

(2.) If God's taking Eve out of Adam, the forming her of one of his Ribs without his concurrence, did yet make her his Inferiour, his Children were much more so, which were derived from him, and by his Act.

(3.) If she were formed for him, not he for her; and that was another reason; this extended to his Children too, who were begotten for the comfort and assistance of both him and her.

(4.) When God put Eve under the Subjection of her Husband after the Fall, her Children must needs be so too, if they were not excepted, but we read of no exception.

(5.) Is it not an Eternal Law of Nature, that all Children should be subject to their Parents? and did not this Law spread it self over the Face of all the Earth, as Mankind encreased?

And whereas you would limit this Power of Parents over their *Ibid.* Children, both in its Extent and Duration, this is purely owing to the Civil Laws of Nations, and not to the Laws of Nature, and is different in different places; some having restrained the Power of Parents more, and some less. But God gave the Parents a Power of Life and Death over their own Children, amongst his own People the Jews, and that not limited

limited in Duration neither, for the Fathers Power over his Son was not determined but by his Death, though they could not execute that Power, but in the presence of a Magistrate. And I am also sure that in all the Histories and Relations I have met with, amongst civiliz'd Nations (where it is not otherwise order'd by the Civil Laws of the Country) all Husbands, and Fathers have Power of Life and Death over their Wives, and Children, and so it is at this day amongst many Eastern Nations, and was antiently amongst the *Romans, Gauls, and Persians, &c.* Which Power I take not to have been given, or conferred on them, but rather left to them by the Civil Laws of their Country in the same state, as it was establish'd by the Law of Nature, or rather Nations. Now if such Husbands and Fathers antiently had, and still have a Power of Life and Death in divers Countries over their Wives and Children. I desire to know what higher Power they could enjoy, since he that hath Power over a Man's Life, which is of the highest concern to him, may certainly command him in all things else?

But as for your last Scruple that you cannot see, if Monarchy be of *Divine Institution*, how any Government but that can be lawfully set up or obeyed by Men, I think it may be a satisfactory Answer, if I tell you, that if those who are born under a Monarchy can justify the Form they live under to be God's Ordinance, they are not bound to *F.A.M.M.p.266.* forbear their own Justification, because others cannot do the like for the Forms they live under; let others look to the defence of their own Government: If it cannot be proved, or shewed that any other Form of Government had ever any Lawful beginning, but was brought in, or erected by Rebellion, must therefore the Lawful and Just Obedience to Monarchy be denied to be the Ordinance of God?

F. I hope before I have done, to give you a clearer Original from the Law of Nature, as well of Paternal Authority, as Civil Government, without recurring to Divine Revelation which (as I said before) would oblige none but Jews and Christians, or Mahometans, whose Law is a mixture of both the other. In the mean time give me leave to tell you, that *Eve's* being the Representative of all Wives, did not put either her self or her Daughters into any absolute Subjection either to *Adam*, or their Husbands; if it did, then could not this Subjection be likewise owing either to *Adam* as the Patriarch, or Grandfather of the Family, or to his Eldest Son after his Decease, since this would make every Wife in the state of Nature to have had two absolute Lords, her Husband, and her Husband's Father, which is contrary to our Saviour's Rule, That no man can serve two Masters, that is, in the same kind of Service: And therefore it plainly makes out my distinction, that there is a great deal of difference between a Conjugal Submission of a Wife to her Husband, and a Servile Subjection of a Servant to his Lord, as also of that Obedience, or Duty, which a Subject oweth his Sovereign, since by your own Hypothesis it necessarily follows that either *Cain's* Wife (for example) was not to be subject to her Husband, or else must be free from all Subjection to her Father *Adam*: But as for any Submission to *Cain*, as Elder Brother after *Adam's* Decease, I desire to be excused meddling with it till we have dispatcht the Question in hand.

I come now to those fresh Considerations you bring for this Monarchical Power of *Adam*; for indeed I cannot call them new Arguments, because most of them have been answered already. The first Consideration is from the

the Priority of the Being which you suppose gave *Adam* a Power over his Wife, and consequently over his Children; but I think this Priority of Being could give him no such Power at all over her, and consequently not over them; for I desire to know whether if God had been pleased to have Created, the same day that *Eve* was made, twenty single Men, and their Wives, that therefore *Adam* must have been, from his being first Created, Monarch over them all, unless God had particularly commanded it?

I grant indeed that from God's Creating *Eve* out of *Adam*, it did render her inferiour to him and also from God's exprels command that she was to be subject to him in all Conjugal Duties, yet did neither of these render either her, or her Children absolute or perpetual Subjects, and Slaves to *Adam*. And that their being deriv'd from him, or by his Act doth not at all alter the Case, I have already proved.

As for the third, that if she were formed for him and not he for her, that this must be another reason which must extend to his Children too: Here the Assumption is not only false, but the Consequence too: For she was not only formed for him, but that they might be a mutual help to each other, and therefore the Scripture tells us, *A Man shall leave his Father and Gen. 2. 24. his Mother, and shall cleave unto his Wife, and they two shall be one Flesh*; which words (in my Opinion) are very far from proving any such absolute Subjection; for no Man can ever tyrannize over his own Flesh; and if such an absolute Subjection had been intended, from *Eve* to *Adam*, it had been more consonant to reason, for the Scripture to have enjoin'd her to have left her Father, and Mother; to cleave to her Husband. Whereas indeed there was no more meant by this Text, than that when a Man marries, he may freely quit his Fathers Family, and joyning himself to his Wife, may set up another of his own. But as for the Children that were begotten between them, tho' I grant they might be intended both for the comfort, and assistance of him, and her, yet I have already proved that the Parents are more chiefly intended for their Childrens Propagation, and Preservation, than the Children are for their Interest, and Happiness.

Your fourth consideration is only a supposition of the question which is yet to be proved, that *Eve* was under an absolute subjection to *Adam* after the Fall. I have already proved this supposition not to be true, and therefore the consequence, as to the Children is false likewise.

Your fifth, is rather an interrogation than an Argument, whether Children ought not to be, and have not always been subject to their Parents all over the World? In answer to which I grant that it is true, that they have ever been so, tho' not in your sense. For I hold this subjection neither to be servile, or absolute, nor yet perpetual, as long as they live: but in reply to this limitation of the Power of Parents over their Children both in its extent and duration, you tell me this is purely owing to the Civil Laws of Nations, and not to the Laws of Nature, and for a proof of this you produce Gods own people the Jews, for an example that the power of the Father over his Son, was not determined but by his Death. But your self confesses that he could not exercise this Power of Life and Death, but in the presence of the Magistrate; the circumstances of which if they be considered, will rather make against you; for first the Father could not have this rebellious Son put to Death, till he had accus'd him before the Elders of the City, that is, the Judges who were establish'd in every Precinct, upon

upon a solemn hearing, were to sentence such a rebellious Son to be stoned to Death by all the People of the City: where you may observe that the Father had no power to put him to death himself, and therefore acted in this case as an accuser or a witness, not as a Judge. But if you'll believe *Maimonides*, one of the most Learned of the Jewish Rabbins, he will tell you that by the Municipal Law of the Jews, this *Traff. Memarim*. power of the Father did scarce extend beyond the thirteenth year of the Son's Age, after which the Son was reckoned Adult, and Emancipated from his Fathers Power, and could not after that incur this punishment of a Stubborn and Rebellious Son; and a Father who did but strike his Son after he was Adult, incur'd Excommunication, for that he offended against the Law. And tho' I grant that the Nations you mention did exercise a Power of Life and Death over their Wives, and Children, yet will not the Practice of some particular Nations, tho' never so much civiliz'd, amount to a proof of a Law of Nature, which is only to be made out from evident Rules of Right Reason, and the great end of this Law, the common good of Mankind; and especially when against the Examples of those Nations which you produce, I can likewise set those of many more Nations, where this Custom was not allowed, after once Civil Government was established. And as for the *Romans* themselves, amongst whom the greatest Examples of this kind are to be found, they will not all of them amount to above three, or four, in six or seven hundred years, and then, tho' there might be very good cause for it, yet the People of *Rome* never so much esteemed or loved such Fathers after they had put their Sons to death, as they did before, but counted them too severe and cruel for so doing. And you may read in *Valerius Maximus*, and *De Clem. Seneca*, that they killed *Erixion*, a *Roman* Gentleman, for whipping his Son to death like a Slave; so much did they abhor all such Cruelty of Parents towards their Children; and afterwards, when by the General Corruption of Manners amongst the *Romans*, Fathers grew more cruel to their Children, and often put them to death without cause. Those of your Faculty, suppose that some of the *Roman* Emperours (tho' it is uncertain who) took away this Power from Fathers, and made it (as it is now among us) Murder, for a Father to put his Son to death, tho' others, since there are no particular edicts to be found concerning this matter, do suppose this Law to be changed by degrees, and to be left off by common consent of the *Romans* themselves; for it seems dangerous to grant to a private person the cognizance of any crime, which might belong to publick Authority; and they thought it better to strengthen both the Paternal and Marital Power by other Laws than putting to death. And therefore *Simplicius* upon *Epictetus* his *Enchiridion*, says, that the *Romans* allowed Fathers this Power, because they thought they might very well trust their Natural Affection to their Children, for the exercise of that Power of selling them or putting them to death, which 'twas supposed they would rarely use, unless compelled by extream necessity or unpardonable crimes; and therefore if a Father would put his Son to death, he was to do it with his own hands, that he might suffer as well as his Son, but when this tender affection too failed, it was no wonder that the *Roman* Emperours did not think it for the common good of their People, to trust Fathers with this Power any longer, which they had hitherto exercised, not so properly by right of

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Father.

Fatherhood, as that of the Master of a Family, who governed his Servants and his Sons by a like Authority.

To conclude, I cannot but observe, how slyly you wave my objection against the Divine Institution of Monarchy, for tho' you seem loth expressly to condemn all other Governments as unlawful, yet the consequence will be the same upon your principles: for if it be a good argument which some make use of, for the Government of the Church by Bishops, because that Government being supposed by them to have been instituted by the Apostles by Divine Precept, therefore that no other Government but Episcopacy can be lawful, or any true Church, where that Government is not in use: so the same argument will likewise hold in Civil Governments, that all others must be unlawful if Monarchy alone were ordained by God, and that all other forms whatsoever began from Rebellion or the Fancies of men.

M. To answer what you have said, in the first place I cannot so slightly pass over this argument of the Law of Nations, by which I supposed the Power of Fathers over the Persons of their Children is sufficiently established, and from whence also it appears that among the *Jews* as well as *Romans*, the Children were lookt upon as part of the substance of their Father, and consequently that they had a perpetual right in their Persons, as long as they lived, that the *Romans* had the power of selling their Children three times, your self do not deny; that the *Jews* also had it in use among them appears, first by the story of the poor Woman, the Widow of one of the Sons of the Prophets, who complained to *Elisba*, in the second of *Kings*, telling him that her Husband is dead, and the Creditor is come to take her two Sons to be Bond-men.

Chap. 4. 1.

And so likewise in the New Testament, our Saviour in *St. Matthew*, supposes it as a thing commonly practised in those parts of the World where he lived. For in the Parable of the King, who would take *Math. 18. 24, 25.* account of his Servants, amongst whom one owed him Ten thousand Talents: But for as much as he had nothing to pay, his Lord commanded him to be sold, and his Wife, and Children, and all that he had, and payment to be made. Which was founded upon that Law amongst the *Jews*, that Fathers might sell their

Verse 5.

Children for Bond-servants, until the year of Jubilee, as appears by *Nehemiah*, Chap. 5. where he relates the Complaint of those poor *Jews*, who had been forced for want to bring their Sons and their Daughters into Bondage: Neither was it in their power to redeem them, for other Men had their Lands, and their Vineyards.

And amongst the *Romans*, this Power of selling their Children continued till it was forbidden by the Emperour *Justinian*. And as for the *Greeks*, *Plutarch* in his Life of *Solon* relates, that till his time it was lawful amongst the *Athenians*, for Fathers to sell their Children to pay their own Debts: And I suppose it was upon this account, that *Cymon* the Son of that great General *Miltiades*, was kept in Prison by the *Athenians*, till he had paid the Fine of ten Thousand Talents, which his Father died indebted to the Common-wealth. And *Philostatus* in his Life of *Apollonius Thyaneus* relates, that it was common amongst the *Phrygians* to sell their own Sons: And to come to more Modern Times, a Son amongst the *Muscovites* may be sold four times, but after the fourth

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Sale the Eather hath no longer a Right in him, as the Baron of *Heberstein* tells us in his Relation of *Muscovy*; and it is not only in use amongst them, but also amongst the *Tartars*, *East-Indians*, *Chineses*, and the People of *Japan*, not only to sell their Children themselves, but also, that they are liable to be sold by the Prince, or his Officers, for their Fathers Debts, or Offences: So that you see here is the Consent of most of the Civiliz'd Nations in the World, who sure, in this, follow the Dictates of Nature, and Reason, in the exercise of a full, and absolute Propriety, and Dominion in, and over the Persons of their Children; so that if it be a received Custom, or Law amongst most Nations, it is also from Reason too, since the Law of Nations is only that which receives its obligation from the Consent of many Nations, as *Grotius* well observes: And *Aristotle* lays it down as one of the strongest proofs, when all men agree in any thing: And *Cicero* tells us, That the Consent of most Nations is to be looked upon as a Law of Nature; and therefore these Customs are to be esteemed as obligatory amongst all Civiliz'd Nations, where the Municipal Laws of those Countreys have not restrained or altered this Natural Power, and Interest, which Fathers had originally over the Persons of their Children.

But as for what you say, that according to my Principles no other Government can be Lawful besides Monarchy, I shall give you the same Answer, that some of the most Moderate of our Divines have given to those, who would make the like Objection against us of the Church of *England*, that believe Episcopacy to be *Jure Divino*; viz. That God may for the necessity of some Ecclesiastical Order and Government in a Church, allow that Form of Government to be Lawful, which himself never Instituted; nay, which perhaps was unlawful to have been set up in the Church at all; and so likewise in Civil Governments, I will not deny, that those Forms may be lawfully obeyed as the Ordinance of God which he never Instituted, but have wholly proceeded from the Rebellions, or Inventions of Men.

F. I must confess, Sir, I cannot see how any Law of Nations can be supposed to lay any Obligation upon Mankind different from the Law of Nature, and Reason, or the revealed Law of God in Scripture. And, tho' I confess there is some division amongst Learned Men about this matter; yet I think it is far more rational to suppose, that there are but two Laws that can be Rules of Humane Actions, the Natural Law, and the Divine. And of this Opinion is the Learned *Grotius* himself in the place you but now cited, where he says, he added the words, *many Nations*, because there can scarce be found any Natural Law, which is also wont to be called the Law of Nations, that is common to all Nations: Yea, that is often lookt upon as a Law of Nations in one Countrey, which is not so any where else; as (says he) we shall shew in its due place, concerning Captivity, and *Pejiliminium*.

And for a farther confirmation of this, I will make bold to read to you in English some part of what the Excellent *Pufendorf* hath written upon this Subject in his Learned Work *De Jure Naturæ & Gentium*, Lib. 2. Cap. 3. which you may here read with S 23. me.

" The Law of Nature and the Law of Nations is accounted by many
 " one and the same, which only differ by an extrinſick denomination.
 " And from hence *Hobbs, De Cive, C. 14. § 4.* divides the Law of Nature
 " into the Natural Law of Men, and the Natural Law of Common-
 " Wealths, which is commonly called *Jus Gentium*: And then adds that
 " the Precepts of both are the ſame; but becauſe Common-Wealths when
 " once inſtituted do put on the perſonal properties of Men, that Law which
 " ſpeaking of the duty of particular men we call natural, being applied to all
 " Common-Wealths or Nations, is called *Jus Gentium*, to which opinion we
 " do likewise ſubſcribe: neither do we think there can be any other volun-
 " tary or poſitive Law of Nations, which can have the power of a Law
 " properly ſo called, and which may oblige all Nations as proceeding from
 " a Superiour. But moſt of thoſe things which amongſt the *Roman Civil*
 " *Lawyers*, and others are referred to the Law of Nations, as ſuppoſe
 " about the manner of acquiring of contracts, and the like, do either be-
 " long to the Law of Nature, or elſe to the Civil Laws of particular Nations,
 " which agree together, for the moſt part, in theſe things: yet from
 " which no new, or diſtinct ſort of Law is Rightly conſtituted, becauſe thoſe
 " Laws are common to Nations not from any Agreement or mutual obliga-
 " tion, but in that they do by accident agree from the peculiar Will of
 " the Law-givers in each particular Common-Wealth; from whence the
 " ſame things may be changed by one People or Nation, without conſult-
 " ing the reſt, and often times are found to be ſo changed. And of this
 " he here gives us ſeveral examples of different cuſtoms amongſt Nations
 " in making War upon each other, according to diſerle forms, or tacit
 " agreements, whereby War may be managed with as little cruelty as may
 " be: but thus he proceeds; " Theſe Cuſtoms altho they may ſeem to con-
 " tain ſome obligation, as ariſing from this ſort of Tacit agreement amongſt
 " Nations, yet if any Prince ſhall wage a lawful War, or neglect them,
 " or ſhould do quite contrary to them, he would not be guilty of any ſin
 " againſt the Law of Nature; but only of a piece of Roughneſs or Incivility,
 " that he did not make War according to thoſe Rules of Honour which are
 " uſed among them, by whom War is looked upon as a liberal Art. [And
 " a little farther proceeds thus.] " Amongſt the principal heads of the volun-
 " tary Law of Nations, *Grotius* reckons the right of Ambaſſadors, where
 " we alſo ſuppoſe that by the very Law of Nature, Ambaſſadors are invio-
 " lable even with the Enemy, as long as they appear Ambaſſadors, and
 " not Spies, and do not contrive Plots againſt thoſe to whom they are
 " ſent, and having ſhewn the neceſſity of Ambaſſadors in order to Peace
 " he thus goes on; but there are other privileges attributed to Ambaſſa-
 " dors, eſpecially to thoſe, who reſide in a place rather to ſiſh out the
 " ſecrets of another State, than for Peace ſake, thoſe privileges depend
 " from the meer indulgence of that Prince to whom they are ſent, and
 " ſo if it ſeems good to him may be denied them, without the violation
 " of any right, if he will likewise ſuffer that his own Ambaſſadors ſhould
 " be treated in a like manner.

M. I ſee whether this Author tends, but do not underſtand what uſe you
 can make of it to your purpoſe.

F. But

F. But I will quickly shew you, if you please to have a little Patience, and therefore to apply what I have now read, to the matter in hand, in the first place it is apparent from this Author, that the Law, or Custom of Nations, hath no obligation as such, but only as it agreeth with the Law of Nature, and the Law of God, and what Laws of Nations are founded on the Law of Nature, can only be tryed by some rule, which certainly is not to be learned from the Knowledge of the Customs or Laws of all Nations, since who is able to know them all? And therefore these Laws must be tryed either by the natural light of a Mans own Conscience, or else by considering whether this or that practice of a Nation conduces to the Honour or Service of God, or the common good and happiness of Mankind, and so may be known as well by the unlearned as the learned. Now I suppose you will not affirm, that this Law of the absolute Property and Dominion of Fathers in and over their Children, can be discovered by either of these ways, or that a Mans Conscience will tell him, that it is his duty to let his Father Kill him or Sell him, or use him like a Brute, without any contradiction or resistance. And as for the other, I think I have sufficiently proved that this absolute power which you assert of Fathers over their Children, doth not proceed from that great Law of Nature, viz. the common good and preservation of Mankind, to which the practice of it may prove very destructive, which if proved, I think, I may easily answer all that you have now said about the particular Customs, or Laws of diverse Nations concerning this Matter, tho' your Instances were many more than they are.

For in the first place as for those you alledge out of the Scripture, they do (as I said before) only regard the Municipal Laws of the Jews; those of the Romans touching this matter, did only concern those Commonwealths whilst they were in being and no other Nations whatsoever, and for this opinion, I have both *Grotius* and *Pufendorf* of my side, for the former in the beginning of the Chapter last quoted, after having set down the different Powers which Fathers may exercise over their Children, according to their different Ages: thus affirms *as you may here see*. "Whatsoever is beyond these Powers, proceeds, only from a voluntary Law, which is different in diverse places: so by the Law which God gave the Jews, the Power of the Father over his Son or Daughter, to dissolve their Vows was not perpetual, but only endured as long as the Children were parts of their Fathers Family.

And by the same Rule I may add, that Children were not reckoned as part of their Fathers Goods, and to be sold by him, or seized upon by Creditors for his Debts any longer, than they continued Members of their Fathers Family, and consequently were not seized upon as his Sons, but Servants. And I desire you to shew me an Example, where ever among the Jews, the Children after they were Adult, and parted from their Fathers House, were sold or seized as Slaves for their Fathers Debts. And as for the Romans, it is plain, they acknowledged their *Patria Potestas* to be in use amongst them, neither by the Law of Nature, or Nations, but only from their own Civil Law, as appears by this Title, almost at the very beginning of *Justinian's*

nian's Institutions, (as I suppose you know better than
Inst. L. 1. §. 2. T. 9. 1) *Patria Potestas est Jura Civilis, & Civium Romanorum*
propria. The Text follows in these words (as I remem-
 ber) *Jus Potestatis quod in liberos habemus proprium est Civium Romanorum,*
nulli enim alii sunt homines qui talem in liberos habeant Potestatem, qualem
nos habemus; and therefore they would not permit strangers to exercise
 it over their Children within the City of Rome. And if the Power of
 the Father amongst the *Jews* and *Romans* was not by the Law of Na-
 ture, or Nations, no more could it be so, tho' exercised amongst never
 so many other Nations, since if it were one of the Laws or Precepts of
 Nature, it could never have been taken away, or restrained by any Civil
 Law without the expresse Consents of all Fathers. And as for your Instance
 of *Cymon* amongst the *Athenians*, it makes nothing to this purpose; since
 if I take it at the worst, it maketh no more, than that the *Athenian*
 Common-wealth dealt very ungratefully, and Tyrannically with *Miltiades*
 and his Son; and it might be that they kept him Prisoner as being Heir
 to his Fathers Principality in the *Thracian Chersonese*, out of which they
 supposed he might pay the Debt; as the King with us doth often put an
 Heir in Prison for his Fathers Debts, where he hath Assets by Descent.

But for all your other Examples, unless they have a reason in Nature
 to support them, they will no more prove that by the Law of Na-
 tions Fathers should have a Right of Life and Death, or of selling their
 Children, than if you should argue from the Common Custom amongst
 the *Lacedemonians*, the *Aborigines* in *Italy*, the Inhabitants of the Kingdom of
Sophris, as amongst the *Indians* mentioned by *Qu Curtius*, and the *Chineſes*,
 and the Inhabitants of *Formosa* at this day; all which either did, or
 now do destroy their Children as soon as they are brought forth,
 or else in the Womb afore they are born, if they please so to do. And
 as for some of these Nations you have instanced in, and particularly
 the *Muscovites*, who can sell their Children, but four times, it is appa-
 rent it is only a Municipal Law; for if the Property of the Father over
 the Sons Persons were by them looked upon as perpetual, he might not
 only sell him four times, but forty, if it were possible.

But on the other side, I have against this Custom of your Nations,
 the Examples of divers altogether as Wise, and Civiliz'd, who did not
 permit Fathers to exercise this absolute Power over their Children, and
 therefore against your Example of the *Jews*, I set that of the *Egyptians*,
 who did not Permit Parents to put their Children to Death, nor yet to
 sell them, unless in case of great necessity, and when they could not other-
 wise maintain them, and then I grant it may be necessary. So likewise
 against your *Roman* Law, I set that of all the Greek Nations, none of
 whom permitted Fathers to put their Children to
Plutarch in *Lycurge*. Death, except the *Spartans*, and that was only in one
 case, and that with the judgment and consent of the
 eldest Men of the Family, yet when their new born Infants were so weak
 or ill shaped as to be thought not worth the rearing. So likewise against
 your examples of the Antient *Gauls*, I set that of the *Germans*, a Nation
 altogether as wise and civilized as the other, to whom I could likewise add
 the

the Antient *Britains*, *Spaniards*, and divers others, and to the more Modern examples of the Eastern Nations, where this custom is permitted of selling or killing their Children; I shall oppose the *Turks* and *Persians*, amongst whom it is forbidden, as also amongst all the Nations of *Europe*, who believe Christianity; and if we go over to *America*, we shall find that they are there so indulgent to their Children, that no fault whatsoever, tho' never so great, shall make them put them to Death. And to let you see that this is most suitable to Reason, the two greatest Philosophers amongst the Greeks, *Plato* and *Aristotle*, have condemned it; The former in his *Laws*, where he expressly forbids it, supposing that in no case whatever, a Father ought to put off all Piety and Humanity towards his Son, and that a Son should be rather led by Nature, than driven by force to obey his Father; especially since his Power is sufficiently established by the Law, and the appointing of publick Judges; and *Aristotle* in his *Morals* to *Nicomachus*, Lib. 8. Cap. 12. accuses the *Jus Patrium* in use among the *Persians* as Tyrannical, and *Grotius* tells you; he makes use of these examples of the *Romans* and *Persians*, only that we might distinguish Civil Rights from Natural. * From whence it appears that the putting of Children to death by Parents, was lookt upon as an odious thing amongst the wisest of the Antients; and therefore neither the *Lex Regia*, nor the Law of the XII Tables, nor the *Julian Law de Adulteriis* (all which left Fathers a Power over the Lives of their Sons and Daughters) yet would extend this Power by Interpretation to the Grand-Father towards his Grand-Son or Grand-Daughter.

* VI. P. *Aerodius*
Rerum Judicatarum L. VI.
cap. 17. *De emendatione Libero-*
rum.

M. Yet for all this I think all the wisest and most Civilized Nations were of my opinion, and it is from them that we ought to take this Law of Nations rather than the others; and therefore I think the *Romans* were a great deal wiser and better People than the *Greeks*, and the Antient *Gauls*, than the *Germans*. Nor does your argument against this power of Life and Death in Fathers by the Law of Nature, seem cogent, that if it were so, it could never be taken away or restrained by any Civil Law, since this argument will make as much against that power of Life and Death, with which you invest your Fathers of Families in the state of Nature, since if they have it by the Law of Nature, it could no more be restrained, or taken away by Civil Laws, than any Paternal Power in the like case.

F. I pray Sir, hold, if this controversy is to be decided by the Wisdom and the Civility of Nations we shall never have done; For in the first place, who shall judge of this consent of the most Civilized People? and that no account is to be made of those whom you call Barbarous; for what Nation will acknowledge itself to be so; or can arrogate so much to itself, as that it may require all others to conform themselves to their Laws and Customs; and that all Nations must be barbarous that act otherwise? Antiently the arrogance of the Greeks, made them look upon all other Nations as Barbarous, and then the *Romans* succeeded in this foolish conceit of themselves; and at this day we People of *Europe* (who are but a few in comparison of the rest of the World) do suppose our selves to exceed all others in Knowledge. And yet on the other side there are diverse Nations

Nations who prefer themselves far before us, and I have read that the *Chineſes* have a ſaying, that the *Europeans* ſee with one Eye, themſelves with two; but that all the reſt of the World are ſtark blind, and yet this Nation maintains a Power of ſelling, and expoſing their Children, which we *Europeans* abhor. Now pray tell me if there is not ſome common rule to be drawn from reaſon, or the common good of Mankind, how ſhall we judge which is in the right? So that notwithstanding all that hath been ſaid on this ſubject: I think I may ſafely conclude with the Judgment of the Learned *Pufendorf*, in *Lib. 6. Cap. 2.* where ſpeaking of the Paternal Power, he ſays thus, "But neither the ſame Power as ſuch, ſeems to extend itſelf to that of Life and Death by reaſon of any fault, but only to a moderate chaſtiſement. For ſince this authority is employed about an Age, that is weak and tender, and in which ſuch incorrigible crimes can hardly be committed, which nothing but Life can expiate, it is much better that a Father ſhould turn out of Doors a Son who doth willfully reſuſe through obſtinacy and wickedneſs all due correction. So that Abdication and Diſinheritance ſeems to be the utmoſt puniſhment which can be inflicted by a Father on a Son conſidered as ſuch."

M. I ſee it is to no purpoſe to ſpend longer time about this queſtion but ſince your ſelf have all along allowed that the Father of a ſeparate Family in the ſtate of Nature, hath a Power to put his Wife or Children to Death, in caſe they have committed any heinous fins or offences againſt the Laws of God or Nature, but you have not yet told me (and I doubt cannot) how *Adam* or any other Maſter of a Family could be endued with this Power of Life and Death, unleſs it were granted him by God.

F. I promiſe to give you full ſatisfaction to this queſtion by and by; but in the meantime, pray let me make it a little more plain to you, that this Power of Life and Death, which may be exerciſed by Maſters of ſeparate Families, over their Wives and Children in ſome caſes, is not by any Power they receive from God, as Huſbands or Fathers but only as Heads or Maſters of ſuch Families, may be proved by this inſtance, ſuppoſe a Maſter of a Family independant on any other (as in the *Indies*) hath neither Wife nor Children, yet ſure he hath notwithstanding the ſame Power of Life and Death over his Servants or Slaves, for ſuch great offences as you have mentioned, in caſe there be no ſuperiour Power over him to take Cognizance of ſuch Crimes. And to make this yet plainer, ſuppoſe a Married Man having a Wife and Children will live (together with them) in the Family of ſuch a Maſter as I have now deſcribed (yet not as a Servant, but as an Inmate or Boarder) and whiſt he ſo continues, his Wife Kills one of her Children, or one of his Sons, Murders his Brother, who hath right to puniſh this offence, but the Maſter in whole Family he is an Inmate? And this follows from your own ſuppoſal: for if every ſeparate Family in the ſtate of Nature be a diſtinct independant Government, then all thoſe that enter themſelves, as Members of ſuch a Family muſt be ſubject to the Maſter or Governour of it. Nor do you reduce me into any abſurdity by your reply to my argument that

That if the Power of Life and Death were Originally in Fathers by the Law of Nature, it could never be restrain'd nor taken from them without their consent; that then this will make as much against the like Power of Masters of Families; since I must grant, this is taken away by Civil Laws, And why not the other? To this I reply, that you do not observe the strength of these words, *Without their consent*; For I suppose that no Power whatever can take this out of the hands of such Fathers, or Masters of Families in the state of Nature, without they assign it to the Supream Powers of the Commonwealth upon its first Institution; whereas you make this Power to be obtainable by Force, as by Conquest, or Usurpation, not only over those that are not at their own disposal, as Children, and Servants; but over their Fathers and Masters too, without their consents; which is contrary to the Law of Nature and Reason.

M. I see you take it for granted, that I will admit your Instance of the Power of Life and Death to be in the Masters of Families, and not as Fathers in the State of Nature: But as plain as you think it, since you question the Power of Life and Death, which I suppose to be inherent in all Fathers; I know not why I may not with more Reason question your allowing the like Power to Masters of separate Families, since there is no reason, in my Opinion, which you can bring for such a Power in your Masters of Families, which I cannot with like reason urge may be also exercised by Fathers, and Husbands, over their Wives and Children, in case they deserve it. For if it be for the good and preservation of mankind, that great and enormous Crimes, such as Murder and Adultery, should be punished, and that with Death, Who is more fit to inflict these punishments, or who can be supposed to judge more impartially of them, than the Father, or Husband himself? Since he cannot put his Son or Wife to Death, however they may deserve it, without very great reluctance; since he, as it were, thereby lops off a Limb from his own Body. And therefore I cannot see any Reason, why such a Married man as you describe, should by coming under another Man's Roof only, as an Inmate, or Boarder, and not as a Slave, (which I grant would alter the Case) should lose that Power of Life and Death, which I suppose he hath by the Laws of God and Nature over his Wife and Children, unless he had actually given it up to the Master of that Family with whom he came to Board. And therefore as I do not deny, but that a Master of a separate Family hath power of Life and Death, and also of making Peace and War, with other such Masters of Families, nay, with Princes themselves, if there be occasion, as we read in *Genesis*, Ch. 14. That *Abraham* made War with the four Kings who had taken *Lot* Prisoner. So likewise when *Judab* pronounced Sentence of Death against *Thamar* his Daughter-in-Law, for playing the Harlot, *Bring her forth, says he, and let her be burnt*, Gen. 38. I own this was not done by the Authority of a Father alone (she not being his own Daughter, and his Son being then dead); but as the Master of a separate Family, who hath (I grant) power of Life and Death, as he is Lord over the persons of his Children, as Servants, and consequently over their Wives also; for if he hath power over his Son, he hath certainly the like over all that belong to him, as long as they continue members of his Family, and that he hath not thought fit to manumit, or set them free. But now I desire to know by what right these Patriarchs could exercise all these marks of Sovereignty, especially this great Power

of Life and Death, unless it were derived from God at first; since no Man hath any power to dispose of his own Life at his pleasure, and therefore sure hath naturally no power over that of another man's: So that not only this Power of the *Patrimichs*, but also that of all *Monarchs* to this day, must be derived from this *Divine Original*.

E. Well then, I find you're forced to quit the power of a Father, as such by Generation, since it plainly appears, that this power of Life and Death, which you affirm a Husband, or Father may exercise over their Wives or Children in the state of Nature, is not, *quatenus*, as a Father, but Lord and Master over them; which in the first place I cannot allow to be true in relation to the Wife; nor that the submission of the Wife's Will to the Husband must imply a power of Life and Death over her; for if she is not his Slave (as certainly she is not, for then a Man might sell his Wife when he pleased) I cannot see how she her self could convey by force of the contract, any such Power over her Life, tho I grant, indeed, if she happen to commit Murder upon one of her Children, or other Person of the Family, he may proceed against her as an Enemy, but not as a Subject; and if it be for Adultery it self, I cannot see that the Husband can by the Law of Nature punish her with Death; for since that Crime doth really dissolve the bond of Matrimony, Divorce, or putting her away, and deserting the Child born in Adultery, was even among the *Romans* look'd upon as a sufficient punishment. But as for the Power of Parents over their Children, I do not deny, but that a Father may have the like power over his Children whilst they are part of his Family, as over his Slaves or Servants in Case of such great and enormous Crimes as you have already mentioned; but that this is not as a Father, but Master of a Family, your self have already granted in your Instances of *Abraham* and *Judah*; tho if you will consider the last a little better, you will find that *Judah* did not proceed thus against *Thamar*, as her Father, or Master, but by some other Right; For if you please to look upon the 11th Verse of that Chap. of *Genesis*, from whence you cite this Example, you will find that *Thamar*, after the Death of *Onan* her Husband, went with *Judah's* leave, and dwelt in her own Father's House, and she was then a Member of his Family, and consequently (according to your Hypothesis) not under *Judah's* Power, when she was thus got with Child by him; and therefore not he, but her own Father ought to have condemned her, if this Judgment had belonged to him as to the Master of the Family. And therefore some of the Rabbins suppose, that when *Judah* gave this Judgment against *Thamar*, he did not act either as a Father, or Master of the Family, for he was then under the Power of the *Canaanites*; (who certainly had some Civil Government among them at that time) and therefore they suppose that he acted thus as a Civil Judge, appointed by the supreme Magistrate of that Nation.

But to remove the Instance I have given you of a Father of a Family losing his power of Life and Death, upon his becoming a part or Member of another Family; you your self have already yielded me as much as I can reasonably desire for the defence of my Assertion, since you allow this power of Life and Death to Fathers, not as such, but as Lords, and Masters over their Children, as over their Slaves; and if so, I desire to know who can challenge this Power but the Master of the Family with whom he lives, unless you can suppose two distinct Heads, or Masters in the same House, and then

then they will not be one Family, but two, under distinct Heads, each of them still retaining their distinct Rights. But you will say, That this Boarder, or Inmate, is not a Servant, or Slave to the Master with whom he lives; and therefore hath not forfeited, or given up his Right, or Power of Life and Death over his own Children to him; but it is no matter whether he did, or not, since by making himself a Member of the other's Family, he ceased to be Master of his own, and consequently must lose all the Natural Rights or Prerogatives belonging to it, of which, I grant this of Life and Death to be the chief; for if Families in the state of Nature, are like so many distinct Commonwealths, independent upon each other; it will likewise follow, that the Heads of those Families must be in all things necessary for the Good and Preservation of the Family, like so many distinct Civil Sovereigns, and consequently must have a power of Life and Death, and also of making Laws, with Punishments annexed to them, in all Cases where the good and peace of the Family require it. If therefore in a Civil State, or Monarchy, an absolute Prince come into the Dominions or Territories of another, it is acknowledged by all Writers on this Subject, That such a Prince loses that power of Life and Death which he had before, and cannot exercise it as long as he is in the other Prince's Dominions: So by the same Reason, if the Masters of Families, in the State of Nature, are like so many Civil Sovereigns, it will follow, that they must cease to be such, when they become members of another's Family, unless you will fall into the absurdity of supposing two absolute independent Heads, or Masters, in one and the same House; which, what a confusion it would bring, I leave to your self to judge.

M. I shall not much dispute this Power of Life and Death with you, as belonging to Masters of separate Families: But pray shew me how they can exercise this Power over the Lives of those that are under their Jurisdiction, unless it were granted them by God, by virtue of that original Power given to Adam, not only as a Father, but Prince of his Posterity.

E. I do not doubt but I shall give you a satisfactory Answer to this important Demand, without supposing any extraordinary Divine Commission from God to Adam; For as for your Instance of Abraham's making War, Leagues, or Covenants with other Princes, it is no more than what any Master of a separate Family may do for his own and their defence; and what if you or I were Masters of a Family in the Indies, where there is no Power above us, we might do as well as Abraham, and all this without any other Commission from God, than the great Right of Nature, Self-preservation, and the Well-performance of that trust which God hath put into our hands, of defending, and providing for our selves and our Families; since if God hath ordained the End, he hath likewise ordained all means necessary thereunto; and therefore there is no such great Mystery in this as you suppose.

M. If there were no more in it than a meer Right of Self-defence, for which I grant Retaliation, or Revenge may be also necessary, you would have a great deal of Reason on your side; But pray shew me how a Father, or Master of a Family, can Condemn either his Wife, Child, or Servant to Death, as a punishment for any enormous Crime, such as I have mentioned (and you agreed to) without such a Divine Commission as I suppose Adam had. Since I own Revenge or Retaliation may be used by private men in the State of Nature, by the Right of Self-defence, which I

grant may be exercised between equals; But since all punishments, properly taken, are the Acts of Superiors towards their Inferiors, I cannot conceive how any Father, or Master of a Family, can inflict so great a Punishment as Death upon any Member of it, unless he derived this Power immediately from God, by virtue of the Divine Charter committed by him to *Adam*, and from thence to be derived to all Masters of Families, or Civil Sovereigns, who could never derive this Power from the Joynt Compacts or Consent of Fathers, or Masters of Families; since no man could convey that to another, which he had not himself. And I have already, I think, with a great deal of Truth Asserted, That no man hath power over his own Life, to take it away when he pleases, and therefore cannot have it over another man's; much less can convey any such Right to others, except it were granted at first by God, in the manner I have supposed, which I conceive may easily be made out by several places in *Genesis*; by which it plainly appears that *Adam*, and after him *Noah*, were supernaturally endued with this Divine Power.

F. Tho I am satisfied that this Hypothesis is extremely absurd, since if it were so only, Christian or Jewish Sovereigns, or Magistrates, who acknowledge the Scriptures, could lay any claim to, or exercise this Divine Power; whereas we find it practised by all those Nations, with whom the memory of *Adam* and *Noah* is quite lost, and therefore must claim this Prerogative, not from any Revealed, but Natural Law of God; yet however since you think you have such clear Texts of Scripture on your side, I desire you to produce them, tho, if they should make out what you say, they would only serve to confirm, by Divine Revelation, that Prerogative of Life and Death, which all Masters of Families, as well as Civil Sovereigns, enjoyed by the Law of Nature, before ever the Bible was written.

M. As for my own part, I am so well satisfied of this Supream Power of life and death granted at first by God to *Adam*, and after to *Noah*, that I cannot see that without the supposal of this, any Supream Power could lawfully be exercised by Civil Sovereigns at this day: And therefore I am of Mr. *Selden's* opinion, who in his most learned Treatise, *De Jure gentium apud Hebræos*, maintains with the Jewish Rabbins, That the Law of Nature can never be plainly proved, and made out by Reason, without a Tradition of its Precepts, as given by God to *Adam*, and thence conveyed to *Noah*, and his Posterity: Which Divine Laws, or Commands, are called by the Jews the Seven Precepts of *Noah*, which whatsoever Nation, or People, would observe, they permitted them to live as Inhabitants among them; though they did not embrace Circumcision, or those other Rights and Ceremonies commanded by the Law of *Moses*. Now amongst these Precepts, that of instituting publick Judgments for Capital Crimes, is one of the first, in pursuance of that Command which God gave *Noah* immediately after the Flood; *Gen. 9. v. 6. Whosoever sheddeth man's blood, by man shall his blood be shed: for in the image of God made he man.* By which Text almost all Commentators understand that it is not any common man, but the person of the Civil Magistrate or Sovereign that is to be meant: Since it would be both impracticable, and also breed great confusion in Civil Societies, if by this word *man*, every common person, not endued by God with this Supream Power of life and death, should be understood; and therefore I do suppose with the most Learned Jews, that this Power was first exercised by virtue of that Divine Charter that was given of it by God to *Adam*, and then renewed again to *Noah*, by the Text above-mentioned.

Now

Now that *Adam* had by Divine grant an absolute Dominion over the whole World, and all Creatures therein contained, will appear from *Gen. 1. v. 27, 28.* (here is the Bible, I desire you would read it with me.) *So God created man in his own image, in the image of God created he him; male and female created he them. And God blessed them; and God said unto them, Be fruitful, and multiply, and replenish the Earth, and subdue it; and have dominion over the Fish of the Sea, and over the Fowl of the Air, and over every living thing that moveth upon the Earth.* By which Grant, or Donation, from God of subduing the Earth, and having dominion over the Creatures, *Adam* was made the general Lord of all things, with such a particular propriety to himself, as did exclude his Children from having any share in it. So that if *Cain* had his Fields for Corn, or *Abel* his Flocks, and Pasture for them, it was only by *Adam's* Grant, or Assignment, none of his Children or Descendents having any property in Lands or Goods, without his particular Grant, or Permission.

F. You must pardon me, Sir, if I cannot be of your Opinion, that all the Precepts of the Law of Nature must depend upon no firmer foundation, than a Tradition of the Seven Precepts, supposed by the Jewish Rabbins to be given to *Adam*, and *Noah*, and from them conveyed to all their Posterity, since we find not the least mention of any such Precepts in the Scripture, or in *Josephus*, *Rhilo Judaeus*, or any other ancient Writer, but only in the *Talmud*: Which though it pretends to a great Antiquity in its Traditions, yet any judicious man that will but peruse it, may easily see the fallhood, as well as absurdity of the pretended Tradition of these Precepts; one of which is against eating the Members of any living Creature, which favours so strongly of a Jewish Superstition, that if that were a true Precept, or Law of Nature, no man could eat a Dish of Lambstones, or a Black-pudding, without sinning against the Law of Nature: And it is very improbable to suppose, that all mankind, except *Jews*, *Christians* and *Mahometans*, should be obliged to live or act by those Laws or Precepts they never heard of. For if (as you your self must grant) the memory or tradition of these Precepts be quite lost amongst all Nations, except the *Jews*, it is all one as if they had acted without any Law at all; and consequently, if they have not some better grounds for their observation of the Law of Nature, than these Precepts of *Noah*, I doubt whether (according to your Hypothesis) all Civil Sovereigns that do not own the original of their Power of life and death to this Divine Charter granted to *Adam*, and *Noah*, must be no better than Murderers, since they take upon them to exercise this great Prerogative without any Divine Authority for so doing. But I hope to shew you before we have concluded this conversation, that, not only the Power of Life, and Death, but also other Laws of Nature, may easily be deduced, by Reason, to have been given by God to Mankind, by the ordinary Course of his Providence, without recurring to Divine Revelation; which can only oblige those that have heard of it. But since you lay so much stress upon those Texts of Scripture you have now cited; I pray give me leave to examine, whether they will bear that sense you put upon them: As for the first of those Texts you quote, *Whoever sheddeth man's blood, by man shall his blood be shed*, &c. Suppose I should take it in that sense you put upon it, only to extend to Civil Sovereigns, or Magistrates, it will be so far from proving a Power of Life and Death to have been granted by God to *Adam*, and from him conveyed to *Noah*, that this place seems to imply the con-

contrary; for if it was a known Law before, that Murther was to be punished with death by a Father, or other Magistrate, to what purpose was this Command now given to *Noah*? Since if it were a Divine Law before the Flood, wherefore is it here repeated? And therefore all Expositors agree, that this is the first Precept enjoining Murther to be punished by the Civil Magistrate, which, before any of the Kin of the Person slain might have executed, as appears by *Genesis* 4. v. 14. when *Cain* said unto the Lord, *I shall be a fugitive, and a vagabond on the Earth; and it shall come to pass, that every one that findeth me, shall slay me*; which had been a needless fear, if none but *Adam* had a power to take away his life for the murther of his Brother, as you suppose; much less that God should have needed to have set a mark upon him to keep him from being murdered by his Brethren, or other Relations. Nor will that other place you cite out of *Genesis* prove *Adam's* sole dominion over the Earth, and all the things and persons therein contained. For if you please to consider it, you will find, That it is so far from proving your Opinion, that it speaks the direct contrary. Pray therefore observe of whom *Moses* speaks in that place; Surely not of *Adam* alone, when he says, *Male and female created he them*; and God blessed them, and said unto them, *Be fruitful and multiply, and replenish the Earth, and subdue it, and have dominion over the Fish of the Sea, and over the Fowl of the Air, and over every living thing that moveth upon the Earth*: From whence we may observe, P. n. M. First, That these words being directed in the plural number, both p. 10. to the Male, and Female, were not intended to *Adam* alone; but by way of anticipation, not only to himself, and *Eve*, (who was not then made) but likewise to their Posterity (that is) all mankind; Then that they should be fruitful, and multiply, and replenish the Earth, and subdue it, (that is, possess and enjoy it) and have dominion, &c. over every living thing that moveth (in the Hebrew) creepeth upon the face of the Earth. By which words it appears, That not any dominion over Mankind, but only over Brute-beasts, that move, or creep upon the Earth, is hereby conferred. And that this must be the true meaning of this place, is plain, if you will but read the two next Verses that follow. And God said, Behold, I have given you every Herb bearing seed, which is upon the face of all the Earth; and every Tree, in which is the fruit of a Tree yielding seed; to you it shall be for meat. And to every Beast of the Earth, and to every Fowl of the Air, and to every thing that creepeth upon the Earth, wherein there is life; I have given every green Herb for meat; and it was so. Which words are certainly directed to the same persons as the former (that is) to all Mankind, by the same Argument as that every green Herb is here granted for meat to every Beast of the Earth, and every Fowl of the Air, &c. that then was, or ever shall exist in Nature. So that this Text which you have cited to prove this absolute and sole dominion of *Adam* over the Earth, and all the Creatures therein contained, is so far from proving any such thing, that it seems to me to make out the direct contrary Doctrine, viz. That the Earth, and all the Creatures therein, were not granted to *Adam* alone, as the sole Lord and Master of them; but in common to himself, his Wife, and all his Posterity, who had as good a right to them, as he had himself. So that I must tell you, if you intend to bring me over to your Opinion, you must produce some better proofs out of Scripture, or Reason, than those made use of by Sir R. F. and therefore I desire that you would give me some plainer proofs for *Adam's* absolute Power over his Wife, and

all

all his Posterity, than hitherto you have done; since I cannot see any *Divine Charter* granted by God in Scripture, of any *absolute power*, or dominion, over their Lives, or Persons.

M. I shall, Sir, do my best endeavour to give you all the satisfaction I can possibly therein; therefore I desire you farther to take notice, That Mr. Selden, in his *Mare Clausum*, and all the Jewish Rabbins have understood this Text in *Genesis*, to give *Adam* an absolute power over the Earth, and all things therein contained, exclusive to his Posterity as long as he lived. And the said Author from the ancient Tradition of the *Jews*, is of the same Opinion in his *Mare Clausum*. So that if Sir R. F. and divers others have erred in the sense of this place, I believe it is more than you or I can prove, since sure they would not have put this sense upon it, without they had some good reason for it.

But this much I suppose you will admit, that *Adam* was created by God, and is in Scripture call'd the Son of God, as indeed he was; and if so, let your self, or any other rational man consider, Whether it be at all likely that God should not endow this Son of his, the Father of mankind, with so much Authority and Power as should enable him to govern his own Family, and Children, as long as he lived, without depending upon them for their consent, and chopping Logick with them, whether his Commands were reasonable, or lawful or not: And if a power of life and death was necessary (as the murder of *Abel* by *Cain* shews it was) whether *Adam* had no more share in that Power, than any of his Children, or Grand-children: which is sufficient to shew you the absurdity of your Tenets, That the Authority of *Adam* over his Posterity was not absolute in its exercise, as well as perpetual in its duration; and this I think you cannot but admit, because you have already acknowledged this Power of life and death to proceed from, or to be granted by God to *Adam*; and so consequently must have continued with him as long as he lived.

F. Well, I perceive you find your Monarchy, or absolute Dominion of *Adam* over *Eve*, and all her Posterity, as also over all the Creatures of the Earth, not to be proved from any of these places of Scripture you have brought for this extravagant Opinion; and therefore you now urge upon me my own concession of this Supream and Absolute Authority of Life and Death, which I do not deny but *Adam* might have exercised in some cases over his Wife and Children as long as they continued part of his Family: But that he was not endued with this Prerogative as a Father, but as a Head or Master of his own Family, I think I have sufficiently proved, and therefore need not repeat it. And indeed your own instance of the murder of *Abel* by *Cain*, (which for all we can find past unpunish'd by *Adam*) sufficiently proves, That this Power of Life and Death over his Children or Grand-children, when once they were separated from his Family, was not a necessary Prerogative of his Government, or else that his Children, and Grand-children, when they have erected new Families of their own, had it as much from God as he; and that from the same reason which you give, why God endowed *Adam* with it, *viz.* because without such a Power they could not have been enabled to govern their Children and Families as long as they lived. So that *Adam's* being created by God, or called his Son, gave him not a jot more power over his Children, and his Descendents, than what

As a Master, or Head of a Family he would have had by the Law of Nature however; and it is all one in this Case; whether you suppose Mankind to have been created by God, or to have existed from all Eternity, provided you hold the being of a God, according to the Hypothesis of the more modern *Platonists*, who tho they held the Eternity of the World, yet likewise owned all things to be governed by God's Providence: And therefore if on this Supposition, Mankind could not be well governed, nor preserved, without inflicting of Capital Punishments for great Crimes, and that they are necessary for its peace and preservation; it is likewise as necessary, that there should be some Judge appointed by God to inflict them, which in the State of Nature can be only the Head, or Master of a Family; as after Civil Government is once instituted, it belongs to the Civil Sovereign, or Commonwealth. And thus I hope will serve to answer your Scruple, how *Adam*, or any other Master of a separate Family, may very well be endued with this great Power of Life and Death by the Law of Nature; without supposing any Charter granted him for it by Divine Revelation; or else depending upon his Childrens consent for his exercise of it.

But before I farther consider, whether this Power of *Adam*, or of any other Father, or Master, be perpetual or not, and extends any farther than his own Family, give me leave to examine, Whether or no Children, when grown to years of Discretion, and even whilst they continue Members of their Father's Family, may not in some Cases chop Logick with him (as you call it) and not only question, but judge whether their Commands be reasonable, or lawful, or not; or else *Abraham* (for example) must have sacrificed to Idols, because his Father bid him. Whereas *Jehoshaphat* tells *Achaz*, *Thou, He Father's wife to quit his Countrey, and his Father's House, than to sin against God*. And therefore I think you cannot deny; but if Husbands, or Fathers command their Wives or Children to do any thing that is morally unlawful, or contrary to the Laws of God, or Nature, they may lawfully (may are obliged) not to obey such unlawful Commands.

M. I shall so far agree with you, That if the thing commanded be apparently contrary to the Laws of God, and Nature, that Sect. 48. they are not obliged to obey their Commands; but they must be evidently, and apparently so, before they thus take upon them to refuse obedience to them; otherwise I deny that their Conscience, however misguided, ought to be any excuse, or just ground of their disobedience. For if their Conscience be truly grounded upon the Laws of God, or Nature, that will excuse them; but if it be not, Conscience without such a Law, can never do it. And yet this non-performance of the unlawful Commands of the Husband, or Father, may very well consist without any Anarchy, or disorder in the Family, since the Wife and Children must always yield him an active obedience, in performing all his Commands; or else a passive one, in submitting to whatever harsh usage, or punishment such a Husband, or Father, shall please to exercise, or inflict upon them for their non-performance of them, tho never so unlawful. But yet certainly in all possible and indifferent things, Children are bound to yield, not only a passive, but an active obedience to their Father's Commands. For if his Children should have a Liberty to judge of his Commands, whether they are reasonable, or not, what can ensue but Anarchy and Confusion in all Families?

F. Well, I am glad we are so far agreed, that a Wife and Children in the State

state of Nature have liberty to judge of their Husband's and Father's Commands, whether they are lawful, or not, and also to disobey them, when they are not so: And I think I may carry this a little farther, and affirm, That such Wife and Children ought not to obey the Commands of such a Husband or Father, though they are not really contrary to such Divine, or Moral Laws, but only erroneously supposed so by them; and therefore most Casuists agree, That even an erroneous Conscience does oblige, as long as a man lies under that mistake. For St. Paul tells us, *Whatsoever is not of faith, is sin*, Rom. 14. Nay farther, Such an erroneous Conscience may excuse a man before God, if his ignorance was not wilful, but invincible, and not proceeding from his own fault; but of this no man can judge, but God alone, and the Party whose Conscience it is; and therefore such a Husband, or Father, can have no Right or Authority to compel their Wives and Children to perform such Commands, because the Will ought always to follow the Dictates of the Understanding; and therefore they should not be forced to do that which they judge contrary to God's Moral, or Divine Law; *since Conscience may be instructed, but can never be forced*. Neither will your distinction of an Active and Passive Obedience help you in this matter; For Active Obedience I understand well enough; but as for Passive Obedience, I think it is next door to that we call a Bull, or Nonsense. And to prove this, I shall give you this plain Instance; Suppose you had a *Jew* to your Servant, and should command him to do you some work or other on a *Saturday*, which he judged a breach of the Fourth Commandment, that forbids him to work on the Seventh Day, (or Sabbath) and you being very angry, should cudgel him soundly for this refusal; whereupon he tells you, That you may beat him as long as you please, he would not resist, but yield a passive obedience; but yet could not perform your Commands. I ask you now, Whether you would rest satisfied that this *Jewish* Servant had sufficiently performed what you bad him, by submitting to your cudgelling? and whether your Dinner or Horse would not be as much undressed after this sort of passive obedience, as it was before?

M. Perhaps indeed this Phrase of Passive Obedience may be somewhat improper, and may be more properly termed an absolute Subjection, or Submission; but it is all one what we call it, as long as you understand what we mean, since such Submission doth sufficiently avoid that Anarchy and confusion which would necessarily follow, in case it were lawful for Wives, or Children, in any case whatsoever, to resist their Husbands, or Fathers, though for the defence of life it self; since no Government can be maintained, where the Parties governed have a right to resist their Superiors, or Governors, in any case.

F. I grant indeed that no Government can be maintained where the Parties governed resist their Superiors or Governors in the due exercise of their Power; but when they exceed those limits, they cease to act as true Superiors, or Governors; and therefore when instead of Husbands, or Fathers, they prove Destroyers of their Families, I doubt not but they may then be lawfully resisted by them. For suppose such a Father of a Family should in a furious or drunken fit go about to kill his Wife, or one of his innocent Children, can any body think this was Treason against the Monarch of the Family, if his Wife, or one of his Sons, should rescue her self, or this innocent Child out of his hands by force, if they could not otherwise quiet him?

G

M. This

M. This supposition of Madness, or Drunkenness, in Fathers
B. P. P. of Families; you Gentlemen of Commonwealth Principles make
 Sect. 47. great use of, to justify your Doctrine of Resistance; and I know
 no reason why you might not extend it as well to Anger,
 Lust, or any other Passion that a man is subject to; and have given all the
 World a power to judge when a man is drunk, or mad, as well as his Wife,
 Children, or Servants; nor do I know why you so much insist upon it, but
 because the Authors from whence you had it, are so in love with Rebellion
 and Disorder, that they seek and catch at every opportunity to recommend
 it to the World. But, I believe, had you a Wife, Child, or Servant, that
 should take the liberty of controlling you upon this pretence, you would be
 more enraged with the Reason of the Resistance, than with the Resistance itself.

F. I am sorry, Sir, any thing I have said can so far transport you to passion,
 as to make such unkind Reflections upon your Friends; but pray be not so
 hot; Is it not possible that a Master, or Father, in the State of Nature, may be
 mad, or drunk?

B. P. P. *M.* Yes; And is it not possible also that the Wife may be so
 too? Now suppose they should mutually charge each other with
 Ibid. madness, or drinking too much, who shall judge betwixt them?
 What horrible confusion must this introduce into all Societies, to give
 Inferiors a power to judge their Superiors to be mad, or drunk, and thereupon
 to resist, and oppose them with force? But if it doth at any time happen;
 Wives, Children and Servants, that are dutiful, may have ways to appease
 their Husbands, Fathers, or Masters, when mad, or drunk, without resisting
 or fighting them; as by getting out of the way, or by submission, Prayers
 and tears, which Nature hath taught them on such occasions to make use
 of, and which is a thousand times a better method, than those violent Courses
 you propose.

F. All I desire of you in this Conversation, is, that you would be pleased to
 believe, I do not argue out of any love to Rebellion, or Disorder, or that I
 desire to encourage it in private Families, much less to recommend it to the
 World; only what I speak, is purely out of a desire of the happiness and pre-
 servation of Mankind; and I hope I say no more, than what all sober men
 will allow may be every day practised in private Families; and therefore,
 since you will needs have it, I do extend this Power of Resistance, not only
 to Madness, or Drunkenness alone, but even to Anger, Lust, or any other
 exorbitant Passion a man can be subject to; and I do likewise give all the
 World a power to judge when such a man is mad, or furiously passionate,
 as well as his Wife, Servants or Children, if in those drunken or mad fits he
 goeth about to kill them, or any else. For I think in that case, you will not
 deny, but any honest Neighbour may step in, and bind him, or hold his hands,
 and so may likewise the Wife or Children themselves. As suppose this Father
 or Husband should be so far transported with passion, or lust, as to go about
 to kill his Wife, or ravish his Daughter; I hope you will not deny, but they
 may lawfully resist him, if they can neither run away, nor yet pacify him by
 submission, prayers, or tears, which I grant are much better methods, if they
 may prevail: But what if they can neither get away, nor yet any of those
 gentle means, you propose, can work any good upon him, what shall they
 do then? Can any one believe that God hath appointed an innocent Wife,
 or Children, to be made a Sacrifice to the madness, drunkenness, passion, or
 lust of such a Father, or Husband? And as for the Case you put, Where the
 Husband

Husband or Wife should charge each other with madness, or drinking too much, who should judge between them? It is a meer Cavil; for as long as they only fall out, and only brangle, it is no matter whether there be any Judge, or not. But if it proceeds to blows, and they are like to mischief or kill each other, no doubt but the Children or Neighbours may come in, and part them; and may either hold, or shut up one, or both of them, till they are sober.

M. Pray, Sir, let us leave this touchy Discourse concerning Self-defence, till anon, when we shall have occasion to fall more naturally upon it. Suppose then I should at present grant you, That a Wife or Children may (in case of such extremities as may happen to them by the madness, or drunkenness of the Husband, or Father) restrain, or resist his violence, in case no other means can prevail; what is this to disobeying his Commands, or resisting him when he is sober? which certainly they have no right to do: But to come as near you as possible I can, and to let you see I am not a man of a domineering temper, and who approve of unnecessary Severities, or unnatural Rigours, either in Masters of Families, Husbands, or Fathers; I grant that no Father, or Master of a Family, has any right to punish, or put to death the meanest of his Slaves, much less his Children, without a sufficient cause; or that he may sell his Children, or otherwise tyrannize over them by cruel usage, or too severe punishments, since they are not only part of his own Substance, and to whom by the order of the Creation he gave a being, but was also (as you well observe) ordained by God for their happiness, and preservation, as they were also (as well as his Wife) for his constant help, comfort and subsistence; and therefore they were, as much, or more, made for him, as he for them, as it is plain concerning the Wife from the Text in *Genesis*, when God said, *It is not good that the man should be alone, I will make him a help-meet for him*, Gen. 2.17. (*viz.*) the Woman; and therefore, as her subjection to her Husband is perpetual, as long as she lies, so likewise is that of the Children in whom he acquireth a Property by their Education for so many years; which I look upon as a greater obligation than their Generation; and over both whom he must, in the State of Nature, have an absolute power of life and death; which though I grant he may happen sometimes to abuse, yet I suppose no person living hath any right in that state to resist him in the execution of it, much less to call him to an account, or punish him for the Male-administration of his Power. And you have granted, that the Husband in the state of Nature hath a power of life and death over his Wife, if she murders her Children, or commits any other abominable sin against Nature; and that then she may be justly cut-off from the Family, and punish'd as an Enemy to Mankind, and so certainly may his Children too. But what need I say any more of this Subject, when you have not as yet answered my former Arguments concerning the absoluteness and perpetuity of this Conjugal Subjection, (and that which will likewise follow from it) the constant service and subjection of Wives and Children to their Fathers in the state of Nature. Therefore pray, Sir, let us return again to that Head, and let me hear what you have to object against those Reasons I have brought for it.

F. I beg your pardon, Sir, if I have not kept so close to the point as I might have done; but you may thank your self for it, who brought me off from what I was going further to say on that Head, by your discourse of *Passive Obedience and Non-resistance*; and I know not what strange unintelligible Power of Life and Death conferred by God on *Adam*, as a Husband, and a Father. But first give me leave further to prove, that this subjection of

the Wife is neither absolute, nor irrevocable. For proof of which I shall lay down these Principles. 1. That the Wife in the state of Nature, when she submits her self to the power of her Husband, does it to live as happily as she did before, or rather, to enjoy more of the comforts of life than in a single state. 2. That therefore she did not renounce either her own happiness or self-preservation. 3. Neither did she make him the sole and absolute Judge of the means that may conduce to these ends: for if this were so, let him use her never so cruelly, or severely, she could have no cause to censure him, or complain in the least against him. 4. If she have not so absolutely given up her Will to his, she is still Judge when she is well used by him; or else so cruelly, that it is no longer to be endured. And therefore if such a Husband will not allow his Wife sufficient Food and Raiment, and other necessities; or that he uses her cruelly, by beating, or other punishments, or hath endeavoured to take away her life; in all these cases in the state of Nature, and where there is no Superior Power to complain, or appeal to, she may certainly quit him; and I think she is not bound to return, or cohabit with him again, until she is satisfied he is sorry for his former cruel treatment of her, and is resolved to make amends for the future. But whether this Repentance be real, or not, she only can be Judge, since she can only judge of her own happiness, and the means of her preservation. And the end of Matrimony being for their mutual happiness, and help to each other; if he have broke his part of the Compact, she is then so far discharged from hers, and consequently in the meer state of Nature (which is that we are now talking of) the *Vinculum Matrimonii* (as you Civilians term it) will be likewise dissolved: So likewise if such a Husband, for no just cause, or crime in the Wife, but only to be rid of her, should endeavour to take away her life, as suppose to strangle her in her sleep, or the like, no doubt but she may (notwithstanding your Conjugal subjection) resist him by force, and save her life, until she can call in her Children, or Family, for her rescue and assistance; who sure may also, notwithstanding this absolute Despotick Power you place in their Father, or Master, rescue her from his rage and malice whether he will or not: Nay they are bound to do it, unless they will be Accessaries to her Murther.

M. These are doubtful Cases at best, and do very seldom happen; and a Husband can scarce ever be supposed to be so wicked, as to hate, and destroy his own Flesh, and therefore we need not make Laws on purpose for Cases that so rarely happen.

E. Rarely happen! I see you are not very conversant at the *Old Bailey*, nor at our Countrey Allizes; where if you please to come, you may often hear of Cases of this nature; and I wonder you that are a Civilian, and have so many Matrimonial Causes in your Spiritual Courts, brought by Wives for Separation, *propter Savitiam*, &c. should doubt whether Husbands do often use their Wives so ill, that it is not to be endured. But if the Wife have these Privileges, pray tell me why the Children shall not have the same, according to your own *Maxime parsus Sequitur Ventrem*, since the Subjection of Children must be according to your own Principles, of the same nature with that of the Mother; and then pray what becomes of this absolute and perpetual Subjection you talk of?

M. Yet I hope you will not affirm, but that Children are under higher obligations of Duty and Obedience to their Father, than a Wife is to her Husband, with whom perhaps she may in some cases be upon equal terms; but Children can never be so in respect of their Father, to whom they are always

inferior,

inferior, and ought to be absolutely subject in the state of Nature (that is) before Civil Laws have restrained Paternal Power.

F. I thank you Sir, for bringing me so naturally to the other Head I was coming to, and I agree with you in your other Maxim, of *Quicquid ex me & uxore mea nascitur in potestate mea est*, yet not in your sense; For if I should grant, that the Father's Power over the Child, commences from his Power over the Mother by her becoming his Wife, and submitting her self, and consequently all the issue that should be begotten of her, to her Husband's Power; yet (as I have proved already) in case of the Wife, so I think I may affirm the same in that of the Children, That they are not deliver'd by God so absolutely to the Father's Will, or disposal, as that they have no Right, when they attain to years of discretion, to seek their own happiness and preservation in another place, in case the Father uses them as slaves, or else goes about to take away their Lives without any just cause, since when Children are at those years, I think they are by the Laws of Nature sufficient Judges of their own happiness, or misery, that is, whether they are well, or ill us'd; and whether their Lives are in danger, or not, by their Father's Cruelty.

For tho I grant that Children considered as such, are always inferior to their Parents; yet I must likewise affirm, that in another respect, as they are men, and make a part of that great aggregate body of mankind, they are in all points equal to them; that is, as the Parents have a right to Life, Happiness, and Self-preservation, so have they likewise, and consequentially to all necessary means thereunto, such as Food, Cloaths, Liberty (I mean from being us'd as Slaves) which Principles, if true, will likewise serve for a farther proof against that absolute Property, and Dominion, you suppos'd to be confer'd on Adam over the Earth, and all things therein, exclusive to that of his Wife and Children. For if they had a right to a Being and Self-preservation, whether he would or not, so had they likewise to all the means necessary thereunto; and he was not only oblig'd to provide Food and Raiment for his Children, whilst they were unable to do it for themselves, but also when they grew up to years of discretion, they might take it without his assignment, and this by virtue of that Grant in *Genesis*, I before quoted, *And God said, Gen. 1. (viz. to the Man and the Woman; and in them to all mankind then in their Loins) Behold, I have given you every herb bearing seed which is upon the face of the earth, &c. behold, to you it shall be for meat.* So that sure you were too rash, in affirming with Sir R. F. That a Son, a Slave, and a Servant, were all one at the first: For I hope I have proved the Father doth not acquire any absolute Property in the person of the Son, either by his begetting him, or bringing him up; for then I grant, a Son and a Slave would be all one. But if you please better to consider it, you will find, that Fathers were never ordain'd by God for perpetual Lords and Masters over their Children, but rather as Tutors and Guardians, till they are of years of discretion, and able to shift for themselves; God having designed the Father to beget, and bring up his Child, not for his own interest, or advantage only, but rather for the Child's happiness and preservation, which by the Laws of God and Nature he is bound to procure: For as it is the Son's Duty never to do any Action that may make his Father repent his begetting, or bringing him up; so on the other side, the Father ought not to treat his Son so severely, as to make him weary of his Family, much less of his Life. It is the Apostle's precept, *Ephes. 6. 4. Parents provide*

not *your Children to wrath*; which certainly he knew they were apt to do, or else that precept had been needless. Now pray tell me, if *Adam* had used one of his Sons (whom he loved worse than the rest) so cruelly, as to make him a Slave instead of a Son, and when grown a Man, should have put him to all the servile and hard labour imaginable, with scarce Victuals enough to live upon, or Cloaths to cover him, What must this Son have done? born all patiently? Or else do you think it had been a damnable sin, if he had fled into the Land of *Nod*, to *Cain* his elder Brother?

M. To answer your Question, I think in the first place it had; for I do not only take *Cain* to have been the first Murderer, but Rebel too; and in the next place this Question is needless; for it can scarce be supposed, that ever *Adam*, or any Father can be so wicked and ill-natur'd, as to use a Son thus cruelly without some just occasion; but if he had, I think he ought to have endured any thing from his Father, rather than have left him without his leave, since I cannot see how Children can ever set themselves free from their Father's Power, whether they will or no.

F. If that be the condition of Children, they are then, instead of Sons, as absolute Slaves as any in *Turkey*, whenever their Father pleases. But you have already granted, that Fathers ought not to use their Children like Slaves, nor to sell them for such to others; And tho I have no great kindness for *Cain*, yet I know not what warrant you have to call him Rebel; I am sure neither the Scripture, nor *Josephus*, mention his going to the Land of *Nod*, as an offence committed against his King and Father *Adam*; but rather as a piece of compliance, or obedience to God's Sentence, who had made it part of his Curse so to do.

M. I shall not much trouble my self whether *Cain* was a Rebel or not; I only tell you, what some learned men have thought of his quitting his Country; but as for other Children, tho I grant their Fathers ought not to use them like Slaves, yet if they should happen to do so, I think such Children ought to bear it as a Judgment inflicted by God for their Sins, and should not by any means set themselves free, tho their Fathers use them never so severely, since it is God's will they should be born, and continue under the power of such severe Fathers.

F. But pray, *Sir*, tell me, what if this Son had fallen into the power of a Stranger who would thus make a Slave of him, Was he likewise bound to bear this as a punishment from God for his Sins, and might he by no means set himself free? Since this could not happen without God's permissive Providence at least, and I think you will scarce prove it more in the Case of the Father, unless you will allow God to be the Author of Tyranny and Oppression.

M. I Grant that a Man that is made a Slave to a Stranger by force, without just cause given by him, may set himself free by what means he can; But I deny he hath the same Liberty in respect of his Father, since the Father's power over him is from God, and so is not the Stranger's.

F. What power of the Father do you mean? That of making his Son a Slave, or of using him as a Father ought to use a Son? The latter of these I very well understand to be from God, but not the former; And if the Father hath no such power from God, I cannot see how it can be any act of disobedience in a Son to look to his own Liberty, and Preservation, since Cruelty and Tyranny can never be Prerogatives of Paternal Power, as you your self confess.

M. I

M. I grant, indeed, a Father hath no such Power from God to treat his Son thus cruelly; but if he does, I say again, That God having ordained the Son to be absolutely subject to his Father, he must endure it, let the consequence of it be what it will: And I suppose you will not deny, but that in case of necessity, as when a Father hath not wherewithal to nourish, and breed up his Children, he may sell, or assign his interest in them to any person who will undertake to provide for their Nourishment and Education; and that the Children so sold, or assigned, do thereby become absolute Servants to the person to whom they were thus assigned as long as they lived; and why this should be their condition in respect of a Stranger, and not so to their Father, I can see no Reason, since their Father would have been at as much trouble and charge for their Education as the Stranger.

F. I so far go along with you, that in case of such necessity as you mention, a Father may sell, or assign the present interest in his Child to a Stranger; yet I cannot see any Reason that this Sale, or Assignment, should confer so absolute a Property in the Person of this Child, as that therefore he should be a Slave to this Master, or Fosterer, as long as he lived, since admitting that the Father, or other person who takes upon him that Care, may perhaps justly claim a Right in the Service or Labour of the Child, to satisfy them for their trouble and charge in bringing him up; yet it doth not therefore follow, that this Service is due as long as the Child lives, but rather until such time as they can make their Labour satisfy them for their Charge and Trouble in keeping him, which may very well be by that time the Child attains to Twenty five years of Age at farthest; and there are those that have offered, to breed up and maintain all the Foundlings, and Bastard Children in *England*, if they may be bound to serve them until about that Age; so that I see no reason, why a few years of Education, should give any Man a right over another's person as long as he lived.

But if you urge, that the Child owed his Life to his Father, or Fosterer, since without his assistance he must have perished, and therefore the Service of the Child's whole Life is but little enough to recompence it: To this I answer, That the Parents are under an absolute obligation, by the Laws of God and Nature, to breed up their Child, and they sin, if they do not perform it as they ought; the end of a Father being chiefly for the breeding up, and preservation of the Child, and therefore there is no reason he should acquire such a property in him, merely because he did his Duty; And the Duty of a Father being to better the condition of his Son, and not to make it worse, I doubt whether an absolute and perpetual Servitude, or Death it self, were the better bargain; and if this Right will not hold for the Father himself, much less will it for a Fosterer, since he is likewise obliged by the Laws of Nature, and common Humanity, as well as by his Contract with the Father, to breed up this Child so assigned him; and not to let him perish, if he be able to breed him up. Nor ought this Father's or Fosterer's temporal advantage, which he may make of this Child, to be the principal end of his undertaking, but the doing good to mankind, and the advantage he may reap thereby, is to be considered only as an encouragement, and not as the only motive to this Duty, since he is obliged to do the same thing, tho he were sure the Child would either dye, or be taken away from him, before he could be with him half long enough to satisfy him for his Charge.

Neither

Neither doth this reason hold true even according to the Scripture Rules of gratitude, That a Man hath a right to exact of one to whom he hath done a Courtesy, or bestowed a Benefit, a return as great as the benefit bestowed; since this were not Beneficence, but meer Bartering, or Exchange; and a Man who had his Life saved by another's assistance, (suppose by pulling him out of the Water) must be obliged by this Principle to submit his Life to his disposal ever after. And therefore I desire you would give me some better Reasons, why such a Son ought to be so absolutely subject to his Father's Power, as that it is not lawful for him upon any account whatsoever to free himself from it, let his Father use him never so cruelly or severely.

M. Well, Sir, since you desire it, I will give you the best Reasons I have, why God cannot permit so unreasonable a Liberty as this would give to all Children, in case they should make use of it whenever they thought fit; and therefore God hath ordained it thus, to take away all those pretences of un-dutifulness and disobedience which Children might make, should they be permitted to be their own Judges, when they might quit their Father's Family without his leave; which pretence of cruel usage they would be sure to make use of, thereby to leave their Parents upon every slight occasion, saying, That their Fathers were so cruel and severe, that there was no living with them any longer; when, indeed, it was not so, but on the contrary, no just cause of complaint against them, more than bare correcting them for their Faults, and so the Father might be bereft of any, nay, all his Children who should be helpful and serviceable to him in his old Age, which would breed great confusion and inconveniences in Families, especially in the State of Nature, as in the Case you have put concerning Adam's Sons, they being the only Servants he could have to make use of on all occasions.

F. I desire you in the first place to take notice, That I put this Case concerning Adam by way of supposition only; not but that I have a better opinion of our first Parent (notwithstanding his Fall) than to believe him so ill-natur'd, or that he was ever so cruel as to use his Children thus hardly. But in this depraved state of Nature such unnatural Rigours and Cruelties in Fathers, as well as Disobedience in Children, is but too frequent, which no man needs to doubt of, that will but consult the Custom of divers Nations in *Africa*, and other Countries at this day, where they sell their Sons for Slaves, and exercise this Fatherly Power with the greatest Tyranny and Rigor; using them as Slaves, or selling them to others for such things as they want. And if you think it against the Law of Nature for such Children, when they see themselves ready to be sold to work in the Mines in *Peru*, or Sugar-works at *Barbadoes*, to run away into another Countrey to avoid such a Condition, which is as bad or worse than death, you may enjoy your own opinion; but I am sure you'll have but few Profelytes, but such as are of the like Arbitrary Principles; and as for your Pretence, that if Children should be allowed to judge when their Fathers treated them too severely, or like Slaves, they would all run away, that is but a Subterfuge: For first, it is a needless Caution, Children being, when young, not apt to leave their Parents who have bred them up, upon whom they depend for their subsistence, and to whom, if they are treated like Children, they seldom fail to bear a natural Duty and Affection; and if well used, they will, when of years of discretion, be likewise willing to stay with them, and look after them when Sick, or Old, not only for Duty, but also for their own advantage, and in hopes of having a share in what Goods, or Estates they may leave behind them when they dye. But if, when they
come

come to years of discretion, they can better their condition by marrying, and leaving their Fathers Family, their Parents are bound in conscience to let them go, since it is their duty to better the condition of their Children, and not to make it worse: Always provided that such Children either take care of their Parents themselves, or else hire others to do it for them, in case they want their assistance by reason of their old Age, Poverty or Sickness; but if Children may not quit their Fathers Families, tho' they are never so hardly or severely dealt with, the consequence will be, that Fathers may keep their Children as Slaves as long as they live, tho' it were to a hundred years, or else may sell them to others, to be used worse if possible; the absurdity of which assertions, and how contrary to the common good of Mankind, I might leave to any indifferent Person to judge of.

Therefore, I think, I may very well (according to the learned *Grotius*) divide the lives of Children into three Periods of Ages. The first is the Period of Infancy or imperfect Judgment, before the Child comes to be able to exercise his reason. The second is the Period of perfect Judgment or discretion, yet whilst the Child continues still part of his Fathers Family. The third is, after he hath left his Fathers, and entered into another Family, or sets up a Family himself. In the first Period, all the actions of Children are under the absolute Government of their Parents: For since they have not the use of reason, nor are able to judge what is good or bad for themselves, they could not grow up nor be preserv'd, unless their Parents judg'd for them what means best conduced to this end; yet this Power is still to be directed to the principal end, viz. the good and preservation of the Child. In the second Period, when they are of Mature Judgment, yet continue part of their Fathers Family, they are still under their Fathers Command, and ought to be obedient to it in all actions which tend to the good of their Fathers Family and concerns. And in both these Ages, I allow the Father has a Right to make his Children work, as well to enable them to get their own living, as also to recompence himself for the pains and care he has taken, and the charge he may have been at in their Education, and also to correct them in case they refuse to work or obey his Commands. But in other actions, the Children have a Power of acting freely, yet still with a respect of gratifying and pleasing their Parents, to whom they are obliged for their being and Education: Since without their care they could not have attain'd to that age. But this duty being not by force of any absolute subjection, but only of Piety, Gratitude and Obedience, it does not make void any act, tho' done contrary to their duty. The third and last Period is, when the Son being of years of discretion, either by marriage or otherwise, is separated from his Fathers Family. In which Case, he is in all actions free, and at his own disposal, tho' still with respect to those duties of Piety and Obedience, which such a Son must always owe his Father, the Cause thereof being perpetual.

M. I must beg your pardon if I cannot come over to your opinion, notwithstanding all you have said in this long discourse; *P. O. G. p.* since I cannot conceive, how in any Case Children can naturally 22. 6. have a power or moral faculty of doing what they will without their Parents leave; since they are always bound to study to please them, and tho' by the Laws of some Nations, Children when they attain to years of discretion, have a Power and Liberty in many actions, yet this Liberty is granted them by positive and humane Laws only, which are made by the Supreme Fa-

therly Power of Princes, who can regulate, limite or assume the Authority of inferiour Fathers for the publick benefit of the Commonwealth. So that naturally the power of Parents over their Children never ceases by any separations, tho' by the permission of the transcendant, Fatherly power of the Supreme Prince, Children may be dispens'd with or privileged in some cases from obedience to subordinate Parents.

F. And I must beg your pardon, Sir, if I cannot alter my opinion in this matter, for all that you have now said, since you can give me no better Reasons than what you did at first; and tho' you say, you cannot conceive how Children can ever in any case, have a power or moral faculty of doing what they will without their Parents leave, yet they may have such power in many cases,

whether you can conceive it or no. For tho' I do grant, that Children are always bound to study to please their Parents, yet doth not this duty of gratitude or complacency include a full and perfect Dominion of Fathers, in the state of Nature over the Persons

of their Children, and an absolute power over them in all cases whatsoever, so that the Children can have no right to consult their own good or preservation, however it may be endangered by their Fathers passion or ill nature, since a Wife is always obliged to this duty of complacency to her Husband: yet is not this so absolute, but that in the State of Nature she may quit his Family in those Cases I have already mentioned, and against which you had nothing to object; and I deny your position, that Children when they attain to years of discretion, derive that power, and liberty they use in many actions, from positive Humane Laws only, or that the power which Parents naturally have over their Children, can never cease by any separation, but only by the permission of the Father.

For as for *Budin*, and divers others that have written on this Subject, they do no more than follow others, who have asserted this absolute power of Fathers upon no better grounds than the Civil or Roman Municipal Laws, without ever troubling themselves to look into the true Original of Paternal Authority or Filial Subjection, according to the Laws of Reason or Nature. And most Treatises of this Subject being commonly writ by Fathers, no wonder if they have been very exact in setting forth their own power over their Children, but have said little or nothing of the Rights of Children in the State of Nature, and therefore I shall farther let you see, that this duty of Children, even of pleasing or obeying their Parents, can only extend to such things as they may reasonably or Lawfully command. For suppose, that *Adam* had commanded some of his Sons or Daughters never to marry, you cannot deny but this command had been void: (that being the only means then appointed to propagate Mankind,) for when there then lay a higher obligation upon them to encrease and multiply, than there is now. they might then certainly have chosen Wives for themselves, when they were of years of discretion and capable of Marriage.

And farther to shew you, that Children may in some Cases separate themselves from their Fathers Family and Subjection, without their Fathers consent, is apparent, as to the Daughters, who if they were at first obliged by this precept to marry, might likewise do it whether he would or not, and were to be obedient to their Husbands when they were married, the obedience which they before owed to their Father, being now transferred to their Husband, or else they must serve two Masters, which is against our Saviours Rule, by which it appears,

appears, that the subjection of Daughters in the State of Nature is not perpetual: And to prove that Sons have a like Right to separate from their Fathers Family, let us suppose that *Adam* had been so cruel, and unnatural as some Fathers are, that being only sensible of the profit he received from his Sons labours, he would never have permitted them to leave his Family, nor to enjoy any thing of their own, but would have kept them like Slaves as long as they lived; if you affirm, that he might have done so if he had pleased, and that the Sons had no Lawful means to help themselves, since he only was Judge whether ever he thought fit to set them free or not: You your self have already granted the contrary, when you affirmed, that a Father had no Right to sell his Child as a Slave, and then sure he can have as little Right to use him to himself.

But as for what you say against that natural equality of Children to their Parents considered as Men, you might easily have understood it, if your thoughts were not so wholly taken up with this transcendent imaginary Empire of Fathers in the State of Nature, as if they were some what more than Men. For pray tell me, are they not equal, who have the same Right from God to the same things? For if Fathers have a Right to live and be preserved, so likewise have the Children, and if they have a Right to the end, they have likewise the same to the means necessary thereunto, such as are food, rayment, freedom from Slavery, &c. And if they are thus equal, they must likewise when they attain to years of discretion, be endued with a Power of judging for themselves, concerning what things are necessary to their happiness and preservation, and what tends to their misery or destruction, and consequently may very well judge whether their Fathers treat them kindly or cruelly; for if the Father in the State of Nature is the sole Judge of the means that conduce to his Sons happiness and preservation, without his consent he may determine that Poverty, Slavery and Torment, shall be fit means, and conducing to this end, which is against sense and reason; and tho I grant, that Sons may sometimes be mistaken in the true means that may lead to these great ends of life, yet doth not this take away their Right of judging for themselves, any more than it doth the same Right from their Fathers, who as Men are also lyable to the like mistakes. Neither did any Slave or Subject ever give up his will so totally to his Master or Monarch, as absolutely to renounce all Right to happiness and self-preservation, or to the means that may conduce thereunto. But I think, we have sufficiently debated this great point of the Natural Power of Fathers over their Children, and therefore.

Let us in the next place consider whether Children may not upon these Principles in some Cases make use also of self defence, even against their Fathers, if they cannot otherwise avoid certain ruine and destruction, therefore I will first ask you what you think of this Case? A Son in the State of Nature being separated from his Father's Family, and having Children and House of his own, what shall he doe in Case his Father, by the evil suggestions of a Stepmother, or other wicked Persons, be so far incensed against his Son, as to send Men to burn his House, plunder him of his Goods, and destroy his Plantation?

M. If the Son be absolutely set free from his Fathers Family and Power, with his consent, I do not deny but that such a Son may resist those Persons his Father sends to ruine him and his Family, and may repel their violence by force, but I do not allow the Son the same power to resist the Person of the Father, if he should come himself thus to destroy him.

F. Why so? Do you think a Father by being so, hath any greater Right to destroy his Son and ruine his Family than a Stranger?

M. No; but because the Person of a Father ought always to be esteemed by the Son as Sacred as his Natural Prince, and if he should have a Right to resist his Father by force, he might happen to kill him in the scuffle, which would be a sin against Nature.

F. Well, suppose the worst, would this be more a sin against Nature, than to suffer himself, Wife, and Innocent Children to be turned out of all they have, and left to perish by hunger and cold? St. Paul says, *That he that doth not provide for his Family is worse than an Infidel*, and I think so would the Son be if for fear of hurting his Fathers Person, he should permit all his Family to be exposed to certain beggary and ruine.

M. This precept of St. Paul obliges only, when a Man may provide for his Family by Lawful means, but not when it cannot be procured but by doing what is unlawful, as I take this resistance of the Person of the Father to be.

F. I grant indeed that a Father, acting as such, is not to be resisted, even when he corrects his Son, but I suppose you will not say that in the Case I put, he acts as a Father, but an Enemy, when he goeth about without any just occasion to kill or ruine him, unless you can suppose, that the will to preserve and destroy can consist together in the same Subject; neither can you affirm that the Father hath any right to deal thus wickedly and violently towards his Son, and his Innocent Family. By what Law then must the Son be obliged to Sacrifice his own life, and that of Wife and Children, and all that he hath, to this imaginary Duty?

M. There seems to me two good reasons for it. The first is that gratitude which the Son must always owe his Father for his Being and Education, and therefore if he give up his Wife, Children, and all that he hath to his Will, it would scarce be a sufficient requital for all the Benefits he hath received from him. The second is, because no circumstances whatsoever can take off or obliterate this Relation; and tho' 'tis true your Father whilst acting thus doth not deal with you as a Father, but an Enemy, yet he is still your Father, and you are and will be always his Son do what you can, and so consequently you will still owe him Subjection. For it is a maxime not only of B. P. P. §. 15. the Civil Law, but that of Nature too, and this most of all in the State of Nature, that 'tis, before Civil Laws had restrained the Paternal Power, *Jura Sanguinis nullo delicto dirimi possunt*, and lastly from the fourth Commandment of, *Honour thy Father*, &c. Now no Man can render honour to him whom he goeth about to resist, and so may also destroy.

F. I confess you have urged this Argument as home as the thing will bear; but yet I think I can shew you, that the Son is so far from acting against the Law of Nature in thus resisting his Father, that I think he would rather transgress it if he acted otherwise. But first to answer your Arguments, I deny, that either Generation or Education do confer so great a benefit, that a Man is obliged to Sacrifice himself, his Wife, and Children, and all he hath in return for it. First for Generation, I suppose you will not much insist on that, since you must grant that a Father doth not act in that matter, as a voluntary, but Natural Agent; neither is it in his Power to hinder the Child that he gets from being conceived or born; neither did he get him so much to propagate his Species, as to gratify his own present natural appetite.

Then for Education, which I grant is much the greater obligation, since
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by the former I am only born an irrational helpless Creature, but by the other I am made a reasonable Man, able to help and provide for my self, and knowing my duty to God and other Men, yet even these obligations are not great enough to make me Sacrifice my self and all that I have to his fury or humour. I grant indeed, that if it were to save a kind Father's life, a Son may be obliged to venture, nay lay down his life to perform it; but I deny, that even for such a Father, he hath a Right to give up the lives of others which are not at his disposal (as those of his Wife and Children are not) in this case. For this were not only to return more than was first given, but also to pay debts with that which is not my own; and to give up their lives, and let my Father take them away is all one, if I can hinder it, *qui non prohibet facit*. Then as for the Relation of a Father, which you say no fault of his can obliterate or destroy; you must grant that it may be suspended for a time, as when a Man binds, or resists his mad or drunken Father who would kill him, or his Wife or Children, he doth not do it to the Father, but to the mad Man or Drunkard, and so likewise in this Case, he doth not resist his Father, but a furious unreasonable Creature, who is so far from behaving himself as becomes a Father, that he doth not act like a Man: Nor doth your Maxime hold true in all Cases, and therefore is no Law of Nature, for *Jura Sanguinis aliquo delicto dirimi possunt*, or else a Father could never put his Son to death for any crime whatever, which you have affirmed he may; but certainly when he acts thus, it is not as a Father, nor doth he destroy him as a Son, but an Enemy or Malefactor.

Now I desire you or any indifferent Man to consider, since the common good of Mankind is the sum of all the Laws of Nature, and the great rule by which they are to be tryed, which rule is to be preferred, and conduces more thereunto when they cannot consist at once or together. That a Father, who by your own confession, comes to do an unlawful wicked action, (*viz.*) to ruine and destroy his Son, with his Wife and Children, should be resisted, and consequently one Mans life put in hazard, than that many innocent Persons should be ruined, and perhaps starved to death for want of food and shelter. And as for the fifth Commandment, that extends no more to the Father than to the Mother; tho you are pleased to leave her out, because it makes against your opinion: and therefore if by Honour, is meant, *Thou shalt not resist*, then no Man should resist his Mother any more than his Father; if she went about to kill him, and yet not the Mother, but the Father, is by your Hypothesis, the natural Monarch that hath this Power of Life and Death over the Son. But let us pursue this point no farther, if you will not be convinced I cannot help it.

But pray tell me now, what a Son must do, if his Father transported by fury and malice should go about to kill him with a Sword or other Weapon, and that he hath no other way left to save his life, neither by intreaty nor flight, (which I grant ought to be done if possible,) whether he may resist his Father with what next comes to hand, or suffer himself to be killed?

M. I am much better satisfied in this Case than in the other, that he ought rather to let his Father take away his life than resist him, since here is but one life to be lost, whereas, I confess, the other Case was harder, because there were more lives concerned than the Sons, and I am of this opinion partly for the same reasons as before, and partly because 'tis more suitable both to Reason, and the Law of Nature, as also to Holy Scripture, Precepts and Examples: For if St. Peter command, *Servants to be Subject to their Masters*, &c. not only to the good and gentle, but also to the froward: And if *Servants*, much more

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Sons, who owe their Fathers a higher duty and obedience, than Servants can owe their Masters; and *Isaac* was so far convinced, that his Father *Abraham* had Power over his life, that tho' he was a lusty young Man, and could carry Wood enough to consume a Burnt-offering, yet do we not find, that he offered in the least to resist his Father, when he was about to bind him to be Sacrificed: For he very well knew, that his Father could not be resisted without endangering his life, if not taking it away in the scuffle; and sure you will grant, that a Son ought rather of the two to let his Father kill him, than he take away his life, by whose means he received his own; especially since *Abraham* was the Master of a great Family; and in whose life and well being, not only his Mother, but all the Family had an interest as necessary for their well being and happiness. Nor can I think, that *Abraham* would have so readily assented to God's Command for the doing of it, had he not been already satisfied, that he had an unaccountable power of Life and Death over his Son by the Laws of God and Nature.

F. In the first place, to answer your authorities from Scripture, as for that place of *St. Peter* you have cited, it is not a precept given by the Apostle to Sons, but to Servants or Slaves, whose lives and all that they had were at their Masters absolute disposal, being those whom the Apostle *Paul* calls, *Servants under the yoke*; and unless you will make a Slave and a Son to be all one, (which you have already denied) this precept doth not at all concern them: And as for the Example of *Isaac*, that will make as little for your advantage, for first as to *Abraham*, he could not but know, that to kill his Son without any just cause, was as much murder in him as in any other Man: Now what could be a juster or a higher cause than Gods particular Command? So that as this act of *Abraham* is not to be taken as an Example by other Fathers, so neither doth the Example of *Isaac* oblige other Sons to the like Submission; therefore it is most reasonable to suppose, that *Isaac* being then (as Chronologers *P. n. M. p. 27.* make him to be) about nineteen or twenty years of age, and of years of discretion to ask where was the Lamb for the Burnt-offering, was also instructed by his Father, before he came to be offered, of the reason of his dealing thus with him, and then the Submission was not payed to his Fathers but to Gods will, from whom he miraculously received his being. But if any Man doubt, whether resistance in such a Case were lawful, I leave it to his own conscience to consider, whether if his Father had him alone in a place where he could neither run away nor yet call for help, he would suffer his Father to cut his Throat without any resistance, only because he pretended Divine Revelation for it. Not but that I so far agree with you likewise, as to limit such a resistance only to the holding his Fathers Hands, or warding off his blows, but not to the taking away his life, but of the two rather to lose his own than to kill him, for the reasons you have given, and which I will not deny; but yet if the Father be mad, I much doubt whether the Son is bound to let him kill him rather than take away his life, since such a Fathers life is no way useful to the good of the Family. So that tho' I should grant that Paternal Power is from God, and consequently irresistible, yet doth it not follow that all the unjust force or violence, which a Father as a Man may use against his Sons life or fortune, is such part of a Paternal Power as God hath commanded us not to resist, since your self must grant that he doth not thus act (in going about to kill his Son) as a Father, but a violent and wicked Man: So that where the Father hath no Right, to take away his Sons life, I think in all such Cases, the

the Right of the Son to resist him doth take place. And if a Man may resist, or bind his Father when he is mad or drunk, and in such fits goeth about to kill him, I can see nothing to the contrary why he may not do the same thing, when his Father is transported by a sudden rage or unreasonable malice, since both of them do take away the use of natural Reason as much the one as the other, according to that saying of the Poet, *Ira furor brevis est*. Anger is but a short madness: fury and malice being alike fatal and destructive to the Sons life and safety, with drunkenness and madness; nor doth such a Son resist his Paternal Power, but only his brutish force and violence. So that if Sons (when grown to years of discretion) have not a Right to defend their lives in the State of Nature against all Persons whatsoever, who go about to take it away without any just Cause, every Son ought to suffer his Father to kill him, when ever being transported by madness, drunkenness or sudden passion, he hath a will so to do: which how it can consist with that great Law of Nature, of propagating and preserving the species of Mankind, if a Father should have such an unreasonable unlimited Power, I'll leave it to your self or any other reasonable Man to consider; nor doth it follow, that because a Son can in no wise be Superior to his Father, he ought not therefore to resist him; since tho' I grant punishment is a Right of Superiours over their Inferiours, *P. n. M.* yet so is not resistance; since every one knows that resistance is exercised between equals, as I have already proved Sons are to their Fathers in all the Rights of life and self preservation: and consequently to judge when their Lives and Estates are unjustly invaded.

M. I must confess I am in a great doubt which will most conduce to that great Law you mention, (which I grant to be the sum of all the Laws of Nature) viz. of preserving or prosecuting the common good of Mankind; that Fathers should have an absolute irresistible Power over the Lives and Fortunes of their Children, let them use it how they will, or else that Children should have a Right to resist them in some cases, when they go about to take away either of them without any just Cause: For tho' I own, that (if the former Principle be true) Parents may be sometimes tempted to take away their Childrens Lives or Estates without any just Cause; so on the other side if Children shall assume such a Power to themselves of judging when their Fathers do thus go about, to invade either their Lives or Estates, it will (I doubt) lay a foundation for horrid confusions and divisions in Families, since if Children are under a constant subjection to their Fathers, they ought then to be absolutely Subject to them in the State of Nature, and therefore ought not to be resisted: For if all Fathers, and Masters of Families, are trusted by God with an absolute Power of Life and Death over the Wife, Children, and Servants of the Family, as your self cannot deny, then no resistance of this absolute Power can subsist with the peace and tranquility of that Family, without the diminution or total destruction, of that absolute Power, with which they are intrusted.

And tho' I admit that Parents ought neither to use nor sell their Children for Slaves, nor to take away either their Lives or Goods without great and sufficient Cause: yet of these Causes Fathers in the State of Nature must be the only and uncontrollable Judges; since if Children (whom I still consider as Subjects, tho' not as Slaves in this State, as long as they continue members of their Fathers Family,) should once have a Right to resist, when they thought their Lives or Estates were unjustly invaded; they might also oftentimes through undutifulness or false suggestions pretend or suppose that their Fathers were mad, drunk

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or in a passion, and went about to take away their Lives, when really they intend no such thing, but only to give them due correction: Which would give Children an unnatural power of resisting, or perhaps of killing their Fathers upon false surmises or slight occasions.

And as this would introduce great mischief and confusion in private Families, so would it likewise prove a Foundation of Rebellion against all Civil Powers whatsoever; if Subjects who are the same thing in a Kingdom, that Children are in a Family, (in the State of Nature) should take upon them to resist their Prince when ever they think he goeth about to invade either their Lives or Fortunes, which would likewise serve to justify all the most horrid Rebellions in the World; since all Rebels whatsoever may or do pretend, that their Lives, Liberties and Fortunes are unjustly invaded, when indeed they are not, and likewise upon the least hardship or injustice in this kind inflicted upon any private Subject, either by the Prince or his Ministers, (which abuses and violences do often happen even under the best Governments,) any such private Person who shall think himself thus injured, may upon this principle take up Arms, and endeavour to right or defend himself against such violence, by which means under pretence of securing a few Men in their Lives or Estates, whole Kingdoms (if such Persons can find followers enough) may be cast into all the mischiefs and confusions of a Civil War, till the Prince and Government be quite destroyed.

P. I must confess, the Arguments you now bring are the best you have yet produced, since they are drawn from that great and certain Law of procuring the common good and peace of Mankind. But, I hope, I shall make it plain to you, that no such terrible consequences will follow from the Principles I have already laid down, and therefore I must first take notice that you have in your answer confounded two Powers together, which ought to be distinguished in the State of Nature, (*viz.*) The Power which Fathers, as Masters or Heads of Families, may exercise over the Lives of their Children or Servants whilst they remain Members of their Family; and that reverence and duty which Children must always owe their Fathers as long as they live, even after they become Fathers or Masters of Families of their own. In the first State, I have already allowed, that such Fathers, as Masters of Families may Lawfully exercise a far greater Power over their Children, whilst they are members of their Family, than they can when they are separated from it, yet is not this Power in all Cases absolute or irresistible, as I have already proved; and therefore I do in the first place restrain this Right of self defence, only to such Cases, where a Father would take away a Sons life in a fit of drunkenness, madness or sudden passion, without any crime committed or just cause given: which I also limit to a bare self defence, without injuring or taking away the life of the Father if it can possibly be avoided; and in this Case if the Son, who is like to suffer this violence, may not judge when his life is really in danger to be destroyed, because he may pretend to when really it is not. This is no just reason to overthrow so great a Right as self Preservation; since if this were a sufficient objection, it would have the same force against all self defence whatsoever: For it doth often happen that wicked and unreasonable Men will pretend that they were forced to take away the lives of others only to preserve their own, when indeed it was altogether false and needless, and they only killed them to satisfy their own malice or passion. And therefore, as there is no reason that the abuse of this natural Right should be used as an Argument against the use of all self defence by any Man

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whatsoever. So likewise neither ought the like abuse thereof by some wicked Children to be brought as an Argument against its being made use of at all by others, who are never so unjustly assaulted, and in danger of their Lives from their Fathers violence. If the first principle be true, (on which this is founded) that a Son may exercise this Right of self defence in such Cases, without any intrenchment upon his Fathers Paternal Authority, or that Filial duty and respect which he must always owe him when ever he returns to himself, and will behave himself towards him as becomes a Father, and not like an Enemy or Cut-throat.

And as for the quarrels and confusions, which you alledge may happen in Families between Fathers and Children, in case such a liberty should be allowed, those inconveniencies will prove very inconsiderable if you please to take Notice. That first I do not allow this Right of resistance to be exercised by any Children before they attain to years of discretion. Secondly, that after they have attained to these years, no resistance ought to be made against a Father whilst they remain part of their Fathers Family, but only in defence of their own, their Mothers, Wives, and Childrens Lives; since I grant, that a Son as long as he continues a member of his Fathers Family, ought to bestow all his own labour for his Fathers profit, and cannot acquire any property either in Lands or Goods without his Fathers consent: And since you conceive this Right of self defence, if allowed to Children, would be the cause of so great mischiefs in Families, if Children should have any Right to judge when their Fathers abused their power over them; let us a little consider on which side this abuse is most likely to happen, for if you please but to look into the World, and survey the Nature of Fathers and Children, and set the faults of the one against the other, you will find, (that as I confess,) it is the Nature of many Children to contradict and disobey their Fathers Commands; and that most young People hate restraint, and love too much liberty, and may oftentimes think their Fathers too harsh or severe to them, when really they are not; yet doth such false surmises and disobedient actions seldom end, either in absolute resistance or taking away their Fathers lives by force, or if they do so, it is really done for their own defence, or whilst they are assaulted by them in their own Lives, or those of their Children, but is commonly acted privately to satisfy their own revenge or malice, which I hold to be utterly unlawful: so likewise let us consider on the other side, those temptations that Fathers lye under of P. h. M. p. 41. injuring their Children, or taking away their Lives, or using them like Slaves, without any just Cause; you'll find that they by reason of their age, natural temper or infirmities, may be easily transported to that degree of passion, that not considering the follies of Youth, they may oftentimes in their passion, either beat them so cruelly, as utterly to disable or maim them, or else take away their Lives for little or no Cause: And besides, Fathers being often covetous and ill-natured, (which are the vices of old age,) may (where there is no Power over them to restrain them from it) either keep them as Slaves themselves, or else sell them to others for that purpose, (as I have already given you an example of the Negroes in Africa,) and which of these two inconveniencies are most likely to happen between Children and Parents in the State of Nature; I should leave it to any indifferent Man to judge between us: And therefore I think, it more conduces to the good and peace of Families, and consequently the happiness and preservation of Mankind, (which are the end of all Laws) that Children should be allowed these Rights (I have already laid down)

of asserting their Natural Liberty from Slavery, and defending their Lives, and those of their Wives and Children from the unjust violence of their Fathers, than that they should be left wholly at their disposal to be maimed, killed or ruined, when ever their covetousness, passion or malice may prompt them to it: Since if all Fathers were satisfied that their Children have a Right thus to defend themselves in these Cases against their unjust violence, it would be a means to make them act more cautiously, and to behave themselves with greater tenderness and moderation towards them.

So that to conclude, I utterly deny that these Principles I have here laid down, do at all tend to countenance Rebellion, or raising disturbances in Civil Governments, since I cannot allow you have proved Parents to be Princes or Monarchs in the State of Nature, or that Families, and Kingdoms or Commonwealths are all one: or if I should grant them to be so, yet would it not therefore follow, that every private Subject in a Civil State hath the same Right to defend his life, or that of his Wife and Children, against the violence or injustice of the Supream Powers, as a Son may have in the State of Nature to defend his life, &c. against his Fathers rage or violence; since I grant no particular Subject can contradict or resist the Supream Power of the Lawful Magistrate (however unjustly exercised) by force, without disturbing or at least endangering the quiet and happiness of the whole Community, and perhaps the dissolution of the Government it self, which is against the duty, not only of a good Subject, but also of an honest Moral Man, who will not disturb the publick tranquillity for his own private security or revenge. But in private Families the Case is otherwise, and Children may resist their Father in the Cases already put, without introducing either Anarchy or Civil War in the Family; since it can scarce be presumed that either their Mother, Brothers or Sisters, will take part with a Son or Brother against their Husband and Father, unless it were that they might thereby hinder him from committing murder, by defending their Son or Brothers life, when thus violently and without cause assaulted; and if it should sometimes happen otherwise, yet this would be a much less mischief, then that out of this fear the Lives and Liberties of an innocent Wife and Children, should suffer without cause by his drunkenness or passion.

But as for the resistance which Sons may make in the State of Nature, and when separated from their Fathers Families, it is of a much larger extent since they may then not only defend their own lives, but also those of their Wives and Children with their Estates against their Fathers unjust violence. Tho I do here likewise restraints this self-defence, only to cases of actual invasion or assault of such Fathers, upon the Lives and Estates of his Children; in which cases, I also absolutely condemn all actions and proceedings done by way of prevention, before such violence or assault is actually begun to be made upon them; much less do I allow of any revenge or return of evil for evil, by such Children, when the danger is over; since however such revenge may be Lawful between Persons in the State of Nature, no ways related or obliged to each other; yet do I by no means allow the same Priviledge to Children against their Parents, since I look upon the obligation they have to them to be of so high a Nature, that it can never totally be cancelled, tho in those cases of self-preservation and defence they may be suspended for a time. As if I owed my life, and all that I have to some great Person, who hath either saved the one, or bestowed the other upon me, tho I should be very undutiful and ungrateful too, if upon his becoming my Enemy tho without any just cause, I should go about to return his injuries.

Injuries in the same kind; yet were I not therefore obliged to give up that Life and Estate he had before bestowed upon me, when ever he thought fit, without any just occasion to take them away; and I am confident that Resistance in these cases, and with these restrictions, doth neither derogate from that Gratitude and Piety, which Children always ought to pay their Fathers, nor yet can tend to encourage either Anarchy or Rebellion; since such Sons when once married and are become Masters or Heads of Families themselves, they then cease to be under their Fathers Subjection as they were before, tho' I confess they are always to honour and reverence him according to Gods Command in all cases, when they will deal with them as Fathers and not as Enemies.

M. I shall no longer dispute this Right of Resistance in Children in the Cases you have put, since I see it is to little purpose to argue longer with you about it; but this much I think is still true, that all Supream Powers whatever, cannot without Rebellion and absolute dissolution of the Government be resisted by the Subject; so that if the Government of Fathers or Heads of Families be Supream as you seem to grant, that cannot be resisted neither, without bringing all things therein to Anarchy and confusion.

F. Pray give me leave Sir to interrupt you a little; I desire you to remember that I do not allow the Power of Fathers or Masters of Families to be any more then Oeconomical and not Civil Power, and I have already shewed you how Resistance of such a Power, when violently and unjustly exercised, may be resisted without any Anarchy or confusion in the Family; but as for Resistance of Civil Powers in some Cases, it is not the subject of this discourse, and therefore I desire you would now mind the subject in Hand, and not pass off to any other till we have dispatcht this, so that I would rather if you have any fresh objections to make, that you would now do it, because it groweth late.

M. I must confess ingeniously, your Arguments have much staggered me, since I see great inconveniencies may happen on either side; for if the Father or Master may be the sole Judge, when and how he may exercise this absolute Power. I grant all those mischiefs may sometimes fall out, which you have here set forth, so on the other side if the Children may be Judges in their own case, those evils may often happen, which I have already alledged: And therefore pray pardon me, if I am not too hasty in altering my opinion in this point without better consideration; but methinks you have not yet fully answered one of my main Arguments, to prove the Power of Life and Death to proceed from God alone, and therefore must have been conferred at first on Adam, since no Man hath a Power over his own life, (as I said before) and therefore cannot have it over that of others.

F. I thought I had already as good as answered this doughty objection, when I had yielded to you, that neither private Men nor Masters of Families have any Right to defend their own lives, much less to take away those of others, but as it is granted them by God in the Law of Nature, in order to the procuring the great end of it, viz. the happiness and propagation of Mankind, which I own, could not in this lapsed and depraved State of Nature we now are in, long subsist without such a Power. Yet I think I have already sufficiently proved, that we have no need to recur to I know not what divine Charter granted by God to Adam or Noah, and from them derived to all Civil Magistrates that ever have been or shall be in the World, the consequence of which would be, that no Sentence of Death could be justly given against any Man, but in such Kingdoms or Common-wealths, who own this Authority as conferred on them by

God in *Adam* or *Noah*, from which they must derive their Title to it. Now I desire you would shew me how many Kingdoms or Commonwealths there are in the World, who ever heard of, much less owned this Divine Charter, this fine notion, yea scarce reaching farther, than some few Divines and high Royalists of our own Island.

But be it as it will, the Antecedent, or first Proposition is not true, that no Man in any case whatsoever hath power over his own life, and therefore neither is your consequence; for I suppose, that for the same end for which the Civil Powers may take away another Man's life, viz. in order to the greater good of Mankind, (of which my Religion or Countrey is a part,) I am likewise Master of my own, and may lay it down or expose it, when I think it can conduce to a greater good than my single life can amount to. And therefore the example of *Codrus* the *Athenian* King is highly celebrated by all ancient Authors, and is not condemned by any Christian Writer, that I know of, for exposing himself to certain death to gain his Citizens the Victory, the loss of which would have been the ruine of that State. And in the first Book of *Maccabees*, Chap. 6. 43. (which tho' it be not Canonical Scripture, yet is allowed to be read in our Churches, as containing examples of good manners,) you may read, that *Eleazar* the younger Brother of *Judas Maccabeus*, is there highly commended for his valour in killing the Elephant, on which the supposed King *Antiochus* was mounted, that he might thereby destroy him likewise, tho' he might be assured of his own death by the Elephants falling upon him: And the zeal for the Christian Religion amongst the Primitive Christians was so great, that we may read in *Tertullian*, and divers Ecclesiastical Historians, of whole Troops of Martyrs, who tho' unaccused, yet offered up their lives at the Heathen Tribunals to a voluntary Martyrdom; and farther *Eusebius* him-
Euseb. l. 8. cap. 12. self, doth not condemn, but rather commends some Primitive Christians, that being like to be taken by their Heathen Persecutors, cast themselves down head long from the top of their Houses, esteeming (as he there tells us) a certain Death as an advantage, because they thereby avoided the cruelty and malice of their Persecutors. I could likewise give you (if it were not too tedious) several other Examples of Ancient Martyrs, who have given up themselves to certain Death to save the Lives of some of their Friends, or else of Christian Bishops, whom they lookt upon as more useful to the Church than themselves, and which *St. Paul* himself does likewise suppose to be Lawful, when he tells the Romans, *That tho' scarce Rom. 5. v. 17.* they for a Righteous Man would die, yet peradventure for a good Man some would even dare to die, that is a Man highly beneficial to others. And the same Apostle, in the last Chapter of this Epistle, returns thanks to *Priscilla* and *Aquila*, not only on his own behalf, but also for all the Churches of the Gentiles, because they had for his Life laid down their own Necks, that is, hazarded their lives to save his, and where ever they might have thus exposed them, surely they might have lost them too. And therefore I think, I may with reason affirm, that in most Cases, where a Prince or Commonwealth may command a Man to expose his Life to certain destruction for the publick good of his Religion or Countrey, he hath power likewise to do it of his own accord, without any such command, the obligation proceeding not only from the orders of his Superiours, but from that zeal and affection, which by the Laws of God and Nature he ought to have for his Religion and Countrey, even beyond the preservation of his own Life.

M. Well, I confess, that this that you have now said carries some colour of reason with it, and is more than I had considered before. But pray resolve me one difficulty more, which still lyes upon my mind. By what Authority, less than a Divine Commission from God himself revealed in Scripture, do Supream Powers take upon them to make Laws? And that under no less penalty than Death it self, against such offences, as by the Laws of Nature do no ways deserve Death, such as Theft, Counterfeiting the publick Coin, with divers other offences, needles here to be reckoned up. And if a Father (as you will not allow him) hath no Right over the Lives or Persons of his Wife and Children, I cannot see how a Master of a separate Family can have any such Power, more than his Wife or any other of the Family; and the Scripture seems to countenance this Power of punishing for Murder, to be in any that will take it upon them, and therefore you see *Cain* said, *whoever meets me will slay me.* And God tells *Noah*, *whoever sheddeth Mans Blood, by Man shall his Blood be shed,* without restraining it to any Man particularly, who is to do it.

F. This Objection is easily answered, if you please to consider, what you your self did a good while since urge to me, that God endowd *Adam* with so much Authority, as should enable him to govern his own Family and Children as long as he lived; which I readily granted you, and I only differed in the manner of its derivation, you affirming it to proceed from a Divine Charter or Grant, by Revelation conferred upon him by God, and I maintaining, that both he and every other Master of a separate Family, derive it only from Gods Natural and not Revealed Law, which if it be well proved, such Masters of Families, as also all Civil Powers (whom I suppose to be endued with the Power of all such Masters of Families or Freemen taken together) may for the same end, (*viz.*) the good Government, and Peace of their Families and Commonwealths, make Laws under no less a Penalty than Death it self, against such offences as by the Law of Nature do not deserve it, since without such a Power (the wickedness of Man being come to this height it is) no Family or Commonwealth, could be long preserved in Peace or safety. And therefore, I suppose you will not affirm, but that such a Master of a Family, may very well inflict any punishment less than Death for such offences, which if they find too gentle to amend those crimes, they may likewise for the same reason encrease the punishments ordained for it. And therefore, I yield, that tho' Theft doth not in its own Nature deserve Death, yet if the Master of such a separate Family shall find his Children or Servants to be so addicted to this vice, as not to be amended by any less punishments than Death, he may, for the quiet of his Family, make a general Law, that whosoever for the future shall commit Theft, shall suffer Death; and I doubt not, but such a Law when promulged, may be Lawfully executed, since this Master of a Family is intrusted by God with the sole Power of judging, not only what are crimes, but also what are fit punishments for them, since both are alike necessary for the happiness and preservation of the Family. And I so far agree with you, that such Masters of Families, have as much Power over the Lives of their Children and Servants, as the most absolute Monarchs have over their Subjects, that is, for their common good, and no farther. And upon the same Principles, do all Kings and Common-wealths inflict capital punishments for the Transgression of all such Laws, as do any way entrench upon the common interest and safety of their People; and upon this ground, they may justly inflict no less punishments than Death, for Coining of false Money, which is but a sort of Theft from the publick Treasure of the Commonwealth. And the

the same may be said for all capital punishments ordained against other offences of the same Nature.

M. If Fathers or Masters of Families are endued by God, (as you your self now own,) not only with this Power of Life and Death, for enormous crimes against the Laws of Nature, but also to make new Laws, or ordain what punishments they please for such offences, as they shall judge destructive to the quiet and happiness of their Families, I see no difference (notwithstanding what you have hitherto said to the contrary) between Oeconomical and

F. P. c. 1. §. 10. Civil Power. For if we compare the Natural Rights of a Father or Master, with those of a King or Monarch, we shall find them all one without any difference at all, but only in the latitude or extent of them. For as the Father or Master over one Family: So a King, as a Father or Master over many Families, extends his care to Preserve, Feed, Cloath, Instruct, and Defend the whole Commonwealth; his War, his Peace, his Courts of Justice, and all his Acts of Sovereignty, tend only to preserve and distribute to every Subordinate, and Inferior Father and his Children, their Rights and Privileges. Hath a Monarch Power to make new Laws, and appoint what punishments he will to enforce their Observation? So also hath a Father of a Family. Hath an absolute Prince Power to command or dispose of the Goods and Estates of his Subjects, for their common quiet and security? So also hath a Father or Master of a Family. So that all the Duties of a King, are summed up in this Universal Fatherly care of his People; and if the Sovereignty be the same, I cannot see any Reason, why the Rights and Prerogatives of it should not be so too. And therefore, if non resistance against their Authority, be an unseparable Prerogative of Sovereign Power, then if a Father or Master of a Family be endued with it, he ought no more to be resisted, than the most absolute Monarch.

F. I perceive your Head is very full of this Notion of the Identity of Natural and Civil Power, or else you would never insist so long upon it as you do, after what I have proved to the contrary. And therefore, since I see you look upon this as your topping Argument; I shall do my endeavour to shew you more plainly the difference between them. For tho I grant, that such Fathers or Masters of Families, (as we here treat of,) are endued by God with divers Powers, which are Analogous, or perhaps the same with those of a King or Monarch, that is, of defending their Families as far as they are able from Foreign force and Domestick injuries, and of revenging and punishing all offences that may prove prejudicial or destructive to the Peace and Happiness of their Families; yet doth it not therefore follow, that the Government of private Families and Kingdoms are all one, since they differ very much, not only in their Institution, but also in their end. For first, the Fatherly Power by the Law of Nature, is ordained only for the Generation and Education of the Children till they come to be grown up; and his Authority as a Father, is ordained by God only for those ends; and therefore this Relation of a Father is so inherent in him, that it can never be parted with, or assigned over to any other, so as to make the Child or Son so assigned, to owe the same duty to him, as he did to his Father.

There is also, besides the Power of a Father, that of a Master, or Head of a Family over his Children and Servants, whilst they continue Members or Subjects of it, which Power I grant may be assigned, or made over to one, or more Persons, when ever such Master shall think fit to institute a Kingdom or

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Commonwealth: Yet, as *Dr. Sanderson* very well observes, this Power of a Master differs very much from that of the Civil Powers of a Kingdom or Commonwealth, as well in the object as end of this Power. For *first*, the Power of a Father is only over one single Family, whereas that of a Commonwealth is over divers Families, united under one Civil Head. *Secondly*, in respect of the end, the Power of the Master is chiefly ordained for his own interest and advantage, but that of the Civil Power, chiefly respects the good of the whole People or Community. *Lastly*, the Power of the Master of the Family, is only for the maintaining his own Natural Property, in those things which he hath acquired in the State of Nature, whereas one great end of Civil Government, is to introduce and establish Civil Property in things, according to the Laws of the Commonwealth, and also to maintain it when so constituted. To conclude, Fathers beget their Children, and Masters acquire to themselves Slaves and Servants, but it is from the consent of Fathers or Masters of separate Families, that any sort of Civil Government commenced at first, so that the People at first made Kings, and not Kings the People: And further, it is the duty of Fathers and Masters to provide for their Children and Servants, but the People ought to provide for their Kings, not only for their necessities, but for their Magnificence and Grandeur; so that the Power of Fathers and Masters is Natural, whereas that of Kings and Republicks is Political and Artificial, as proceeding from compacts or the consents of divers Heads of Families or other Free-men. And as Kingdoms and Families differ in the manner of their Institution, so do they likewise in their ends, which is of a far larger extent in the latter than in the former, the main design of instituting Kingdoms and Commonwealths, being not only to defend their Subjects from such injuries or violence that they may do each other, but chiefly by their united Forces, to Guard them from the violence and invasion of Foreign Enemies.

For tho I grant, it may sometimes happen, that a Family may consist of so great a number of Children, Servants or Slaves, as may make a little Army, such as *Abraham's* was when he made War against the four Kings, yet is this purely accidental, and not at all essential to the being of a Family, which is as perfect in all its constituted parts, if it consists of three or four Persons, as of three or four hundred. Whereas a Kingdom or Commonwealth cannot subsist, unless it can either by its own Power, or united Forces, defend its Members from Foreign Force and Invasions: So also in private Families, in the State of Nature, there can be no property acquired in Lands or Goods by any Member of it, without the Masters express will or permission. But in all Civil Governments, the very institution and preservation of Civil Property was one of its chiefest ends, which may easily be proved by experience: Since in all Nations, where there is any Property either in Lands or Goods, there is a necessity of some Civil Government to maintain it. Whereas in divers parts of *Africa* and *America*, where there is no distinct property in Land, and where there are no other Riches, than every Man's small Cottage and Garden, with their Hunting and Fishing Instruments, there is no need of any Common or Civil Power over them, higher than that of Masters or Fathers of Families, who own no Superiority among themselves, unless it be when they go to War, and then they chuse out of their own Numbers for their Captains or Leaders, those whom they know to be stoutest and most experienced, whose Power determines as soon as the War ceases.

But to make an end of this long Discourse, suppose, I should grant all you can:

can desire, that Oeconomical and Civil Government do not differ in kind, but in largeness or extent, yet will it not follow, that therefore it must be in all Cases irresistible, since I think I am able to prove, that no Power whatever (except that of God himself, can be endued with this Prerogative) if once it goes about to frustrate, and destroy all the main ends of Government, (*viz.*) the happiness and safety of the Subjects, either by downright destroying of them, or else by reducing them to a condition of Slavery and Misery, as the Great Turk uses his Christian Subjects. But to let you see, I would deal fairly with you, I will discourse this point of *Adam's* Sovereignty no farther, but will at present take it as the Lawyers say, *de bene esse*, or for granted, and I desire you would shew me in the next place when *Adam* dyed, by what Law, either Divine or Natural, *Cain* or *Seth* (chuse which you will) could command over all the rest of his Brethren and their Descendants. And then again, if you could do this, what benefit this Doctrine would yield to all Princes and States at this day, or how you intend to deduce a Title for them from *Adam* or *Noah*, or any of their Sons to their respective Kingdoms, and consequently to an absolute Subjection of their Subjects, without which all your Hypothesis will signifie nothing.

M. I must return you thanks Sir for your candid dealing, and for the great pains you have taken to enlighten my understanding in this important question. And tho I doubt, you have laid down Principles not so suitable to Gods Will revealed in the Holy Scripture, yet I will not impute it to any want of sincerity in your self, who I hope, are satisfied of the truth of what you have maintained; so on the other side, I desire you not to take it ill, if I cannot leave my own opinion, which I have always hitherto lookt upon, as most suitable to the Doctrine of the Church of *England*, to the Practice of the Primitive Church, and to the Laws of the Land, and must continue therein, till I am convinc'd I am in an Error. But since I desire to have a further Conversation with you upon this important Subject, pray let me know, when we shall meet again, that I may prove to you, from the Holy Scripture as well as those Authors, I have perused, that there is a *Divine Right of Blood* instituted by God for the Succession of Kingdoms, which cannot without a kind of Sacrilege, or the highest Injustice, be taken away from the Right Heir.

F. I kindly accept your profer, and if you please shall Discourse this important Question with you to Morrow in the Evening, if your Occasions will give you leave.

M. I expect you between seven and eight, and in the mean time am your Servant.

F I N I S.

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Printed for Richard Baldwin.

